THE JUVENILE COURT AND THE COMMUNITY

AMERICAN SOCIAL PROGRESS SERIES

THE JUVENILE COURT AND THE COMMUNITY

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New York

THE MACMILLAN COMPANY

1914

Set up and electrotyped. Published November, 1914.

Norwood Press
J. S. Cushing Co. — Berwick & Smith Co.
Norwood, Mass., U.S.A.

"Seek not to be judge,
Lest thou be not able to take away iniquity."

— Wisdom of Ben Sirach, VII, 5.

FOREWORDS

Books are increasingly a social production, especially in the field of social economy. I beg to acknowledge my deep indebtedness to the hundreds of persons who have given me generously of their time and experience but whom space prevents me from enumerating. I acknowledge especially the advice and assistance of Mr. Roger Nash Baldwin, of the Civic League, St. Louis, Mo., formerly instructor in Washington University and Chief Probation Officer in the St. Louis Juvenile Court, to whom I owe my interest in the subject and many of the ideas expressed, as well as personal inspiration; to my teachers at Columbia University and elsewhere, especially Professors Samuel McCune Lindsay, Franklin H. Giddings, and Edward T. Devine, whose help and counsel have made the work possible; to Professor Willard E. Hotchkiss, of the Northwestern University School of Commerce and Finance, for access to questionnaires prepared by other courts for his committee of investigation in Chicago; to Miss Julia C. Lathrop and others in the Children's Bureau at Washington, for advice and

access to material; to Mr. Bernard Flexner, of Louisville, and Judge Julian W. Mack, now of Washington: to the judges and staffs of all the juvenile courts, who have everywhere treated me with courtesy; to Mr. Owen R. Lovejoy, of the National Child Labor Committee, Dr. E. Stagg Whitin, of the National Committee on Prison Labor, and Mr. Arthur W. Towne, formerly of the New York State Probation Commission, for valuable letters of introduction, and to Mr. Towne, for thoughtful criticisms; to Mr. David Terry and others in Philadelphia, for certain manuscripts; to Professor Lindsay, Professor H. W. Thurston, and my wife, for invaluable criticisms, and for aid in revision for publication; and to the stenographers who have saved for me so much time and labor. Many others would here be mentioned were it not for the confidential nature of the material given me by them.

Social work is a field so rapidly changing that time creates errors faster than it can correct them. For these I must accept the responsibility, preferring this to rendering my work less serviceable by useless delay in publication. Most statements of fact will be found reliable through September, 1913.

INTRODUCTION

It is not the purpose of this book to portray the reform of boy gangs, nor to describe in detail standards or practice of courts and probation officers. Its object has been to treat the juvenile court in its relation to other social institutions, as a problem in social economy. The time has come to study the movement in its perspective, and judge its results and prospects in a broader way than is done in most books on the subject.

Just because so much was expected of the juvenile court, it has recently been the object of criticism. How widespread this criticism has been is known only to the few in close touch with the several courts. Not only the Denver and Chicago courts, conspicuous because of their position as pioneers, but those in Boston, New York, Philadelphia, Baltimore, Washington, Pittsburgh, Buffalo, Columbus, Cincinnati, Louisville, Indianapolis, Chicago, Milwaukee, Denver, Salt Lake City, and other localities have undergone criticism ranging from serious disapproval among local social workers to open attack. Many a court is

right in complaining of "peculiar problems" — for every city is different — but is mistaken if it thinks itself peculiar in having a problem.

The following book is an attempt to show how far public dissatisfaction has been warranted, and further to indicate how the juvenile court can justify itself in the face of these attacks.

Much of the dissatisfaction with the net results in society of the juvenile court movement has vented itself on failures in specific phases of the court's work. Those critics of juvenile courts who have expressed themselves publicly yet without political motive have been wont to insist that they were "not actually attacking the court as an institution, but only certain of its methods and policies. . . . Hence, it is not a question of whether the juvenile court shall be maintained and supported but whether it can and should be improved in some respects." [1]

My contention is different. I believe that, in so far as the juvenile court has failed, its failures, if for other than purely personal reasons, have been due to the very nature of the institution. I disclaim any intention of denying the success

[1] Report of investigation by the Cincinnati Bureau of Municipal Research, p. 3.

of the fundamental principles of case work used in the best juvenile courts, for these principles will stand, regardless of attack, as facts of science and of human nature. But there is a distinction between the desirability of having this work done (which is not doubted), and the wisdom of having it administered by a juvenile court as that institution is now understood. An attempt will be made to show that the juvenile court as at present organized is an unnecessary and, in a sense, an anomalous institution.

The present functions of the juvenile court and its probation office could and should be performed by the school and the domestic relations court.

This conclusion is not based immediately upon the particular shortcomings of the several courts. Those are serious enough, to be sure, though in some cases criticism has been unjustifiably severe. Yet the thesis above presented is not pure theory. The germ ideas have been developed and corrected and correlated through personal visits to twenty-five or more juvenile courts and through some intensive study of the causes and treatment of juvenile delinquency. The conclusions, it is thought, are supported by actual tendencies noticeable at present — experiments the success or

failure of which indicate the future of the juvenile court.

Historically and humanely speaking, the juvenile court as an experiment has been amply justified; in the future, if the arguments presented be true, the court can only justify its existence by trying to make that existence shorter. In the meantime, it can serve as a valuable barometer of the conditions affecting children — of what might be called the "delinquent pressure," or, as Ferri might say, the "degree of criminal saturation" of the community.

This is not, then, an attack on the juvenile court in any destructive sense. It is an effort to clear up a vagueness about its present status; to delimit its legitimate functions and point out those which should be given up; and to show how the juvenile court movement, like the settlement movement or the charity organization movement, leads to something more thoroughgoing.

To those communities which have regarded their juvenile courts with pride as permanent parts of their social economy, such a sweeping proposition doubtless seems a bold and impractical bit of academic idealism. The writer is not so rash as to advocate immediate and revolutionary changes

of this character; the juvenile courts as at present organized, if they can be brought to the degree of efficiency which present standards demand, may for years to come perform valuable service. It is well, however, for communities planning such work *de novo* to have a better idea of the outlook for the juvenile court; and for older courts to consider more thoughtfully the foundation of their work, that further developments may take place with a clearer vision of the eventual structure in view.

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CHAPTER I

Stages in the Juvenile Court Movement

The fifteen years' history of the juvenile court movement falls into several interesting phases.

Roughly speaking, the years up to 1904 may be called the pioneer stage. Personal factors were prominent. Miss Lathrop and the group in Chicago; Judge Lindsey of Denver; Judge Stubbs of Indianapolis; Mr. Bernard Flexner of Louisville; Mr. Homer Folks, Mr. and Mrs. Samuel June Barrows, Judge Deuel, and Father Kincaid of New York, and others stand out as dominating figures in this period. Juvenile courts were being started or advocated in many places, often hastily or on a wave of sentiment. The court was journalistically exploited as a panacea for childhood's ills, and children were dumped wholesale on the courts.

In spite of the steady, strong growth of the

Chicago court, Judge Lindsey set his seal upon this period. His lectures were of a character to stimulate the sort of interest which was back of the early courts. The reform of gangs, the honor system, "snitching bees," and recreation features, though not the real heart and secret of the success of the Denver court, were made prominent in the public eye because of their possibilities of picturesqueness; and such things, rather than sober considerations of social economy, influenced the early ideals of some courts. Thinking people have grown somewhat tired of this sort of exploitation. All credit is due to Judge Lindsey, however, for really valuable service in spreading ideas of the court faster than any one else did, and for his real accomplishments in Colorado.

In the second stage, overlapping the first somewhat, the characteristic feature is the growth of volunteer probation. This developed as a makeshift for the work of regular paid officers, and wherever extensively used has in the long run proved ineffectual and inefficient as a system. Most of the organizations of Big Brothers and other volunteers have lapsed into inactivity, though there are occasional revivals of interest.

The third stage has been a natural reaction

from the discovery, as the novelty of the court wore off, that the world had not been reformed after all. Paid staffs had been substituted for the already waning volunteer system, and the courts were visited less often by "social uplifters." Some disappointment was felt in the failure of most courts really to affect radically the boy life of our cities. New volunteer recruits in social work, recognizing more or less consciously that the court's work at best is remedial, shifted their efforts to other fields — the playground or the club, for example — often without maintaining any relation with the juvenile court.

The results of popular disillusionment have been of two kinds. In some places the court has relapsed to a much lower plane. The paid staff has become mechanical, or the judge is unsocial in his point of view, or fails to take the aggressive in the absence of any stimulus from public opinion. Instead of being an active influence in the community for the betterment of conditions causing delinquency, such a court takes itself for granted. It grinds out its grist from day to day, too busy or too indifferent to interpret its meaning for its own edification or the public's. In this respect it has no better example than the police

and criminal courts with which in some cities it has come to rank. On its administrative side, such a court is like a poorhouse or a salvage corps, impotent to relieve poverty or put out fires, let alone to attack their causes.

Other courts, more fortunate in their personnel or in the continued intelligent interest of some group of citizens, developed instead at this stage into established and thriving institutions. Popular interest relaxed, but internal efficiency increased. Adequate staffs were secured, and methods were standardized. The more substantial influence of these courts among social workers has increased. To them we must look for future constructive changes in the development of the court as an institution.

Following the third stage has come, last of all, a period of criticism. Of this fourth stage the following are the evidences:

The outlying courts of *Boston*, and by unjustified reflection, the central juvenile court, have been subject to criticism on grounds of leniency, partiality, and failure to stop suburban depredations.

The *Philadelphia* court, until its recent reorganization as one of the municipal courts, was the subject of general dissatisfaction and finally of repeated meetings and petitions on the part of a

group led by social workers, on grounds of rotation of judges, inadequate probation staff, "criminal" atmosphere and point of view, and lack of co-operation.

Growing dissatisfaction is expressed by social workers in *Baltimore* with the methods and organization of the work there, and private conferences of social workers have been held there in regard to its standards.

In *Washington* the court's efficiency was the subject of federal investigation in the spring of 1912. The court has recently undergone radical changes.

Discontent in *Pittsburgh* is unorganized and has not reached the press much. It has centered on the rotation of judges, the inadequate equipment of the court, and the disorganized methods of work.

Attacks on the *Columbus* court have been largely political and personal in their nature, but all the more bitter for that reason.

The court and probation office in *Cincinnati* have been the subject of full investigation and severe criticism, the results of which were made public in 1912.

Disapproval of the court's methods by the Juvenile Court Committee in *Louisville* led to their collective resignation and repudiation of the recent régime in 1910–1911.

Quiet but definite disappointment is expressed by local workers in *Indianapolis* since the death of Judge Stubbs and the admitted breakdown of the volunteer system in the juvenile court.

The *Chicago* court was the object of violent attack said to be from politico-ecclesiastical sources, from which it has recently emerged, triumphant but chastened.

Denver recently passed through a similar attack, in which the court seems to have been exonerated.

The courts of *Salt Lake City*, *Los Angeles*, and *Buffalo* may also be mentioned as having undergone some criticism, which, had the political situation been as tense as in other communities, might have borne bitter fruit.

In *New York City*, the court and its sponsors have for years been under constant fire, but are beginning to rise to the standards set elsewhere, in which they should take the lead.

One of the questions set forth in the introduction was, whether the juvenile court had justified its existence, in the face of criticism, by an increase in social efficiency corresponding to the energy expended. Has it "arrived," or is it reaching, with present methods, the point of diminishing returns? The writer believes that the evidence shows that the juvenile court has been for its time a splendid institution; but that it has indeed reached diminishing returns in comparison with other means of solving the problem of abnormal childhood; and that in the future it will justify itself only by leading to new things, which we shall soon consider.

CHAPTER II

The Present Status of Juvenile Courts

The juvenile court has gradually developed for itself standards of legislation, of personnel, of administration, of case work[1] Very, very few courts, however, live up to these standards, and fewer still have developed any consistent policy looking in a broad-visioned way toward the future of the court as part of an ideal child-caring system.

The practical juvenile court worker may declare that this ideal is impossible; that local expediency must govern policy entirely. The writer would contend in the first place that certain juvenile courts, like that of St. Louis, have found it feasible to combine the two; and, further, that a clear-cut ideal is of value even in a situation which for

[1] See, for example, Reports of the New York and Massachusetts Probation Commissions; Reports of the Louisville, St. Louis, and Chicago Juvenile Courts; *The Delinquent Child and the Home*, Breckenridge and Abbott; *Preventive Treatment of Neglected Children*, H. H. Hart, ed., Part VI; and especially the Report of the Committee on Juvenile Courts and Probation of the National Probation Association.

the time being necessitates a policy contrary to it.

Let us, then, independently of the standards of method or case work involved in any particular kind of work undertaken by the courts, note for examination the various functions performed by different courts, and attempt to discriminate the essential from the accidental.

In many juvenile courts the probation officers are empowered to make arrests and file their own complaints. These are excellent provisions for emergencies and for cases which are merely violations of probation. But some officers go to the extent of preferring to bring in their own cases, even where they are violations of law and order.[1]

[1] See *Juvenile Court Laws Summarized*, H. H. Hart, ed.

In Washington, D. C., the probation officers have no power to arrest, their duties being prescribed by the judge (D. C. 34 U. S. Statutes at Large, 43, Sec. 4) who has been opposed to this power. This court is exceptional in this respect. In Wisconsin, Washington (state), and some other places, they have this power only for children's cases. Utah (1907, Ch. 39, Sec. 11), on the other hand, definitely obliges the probation officer to file complaints against any cases of delinquency or contributory delinquency which may come to his notice. In St. Louis the probation officers arrest wards of the court when necessary and possible, but insist on the police bringing in all new delinquent cases.

In Cincinnati "Considerable time is spent doing police department work, such as keeping the peace, making arrests, and detection of offenses. The police departments of some other cities assign

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Before the days of juvenile courts children detained for trial were placed in the jails, which are under administrative authority. The evils of detention with adults led to the establishment of detention homes for children, but these were placed instead under control of the juvenile judge. With the exception of Boston, Jersey City, and Baltimore all the large juvenile courts administer detention homes[1] and consider them essential parts of their equipment. In the most fully equipped detention homes are facilities for special instruction, recreation, and health. Teachers are frequently furnished by the local boards of education.

Just as the juvenile court substitutes for the jail a detention home under its own administration, so for the investigation of the prosecuting attorney it substitutes an investigation adminis-

regular patrolmen and a detective to the juvenile court for these purposes. Such an arrangement might be secured here to advantage."

In Des Moines (Report, 1912) only 30 of 297 delinquent complaints were filed by police. There seems to be an undue proportion of this work done by probation officers in that city. Nashville provides by law that the probation officer shall file complaints.

[1] Yonkers, Trenton, Camden, Elizabeth, Paterson, Springfield, Worcester, and Hartford are among the smaller cities lacking detention homes.

tered by the court itself for its own information. This is ordinarily done by the probation officers. It consists, or should consist, of inquiries into the character and habits, neighborhood and home surroundings, family and associates, recreation, education, and occupation of the child.[1]

Many courts, recognizing the important part played in conduct by bodily and mental condition, whether hereditary or acquired, have established diagnosing and prognosing clinics, also administered as a part of the probation office or detention home.[2] It is not so commonly recognized that this psycho-physical examination is essentially similar to the process of investigation and should form a part of it in every case. Some courts substitute the medical inspection system of the schools,[3] or other outside agencies.[4] Only in

[1] St. Louis, Chicago, and Boston have the best forms and technique of investigation.

[2] The following courts have given special attention to clinical equipment: Chicago, Seattle, Los Angeles, Minneapolis, Louisville, Philadelphia. Clinical work is also done in Brooklyn, Newark, Pittsburgh, Buffalo, San Francisco, Winnipeg, Grand Rapids, Detroit, and St. Louis; and the establishment of regular clinics in the juvenile courts is being urged in St. Louis, Toronto, Winnipeg, and Cincinnati.

[3] Denver, Toronto, Yonkers, Trenton. Comparatively few cases are thus examined.

[4] Cincinnati, Des Moines, New York City (until the law providing for staff physicians), Detroit, Indianapolis, Newark, Lexington.

Baltimore and Portland, Ore., has the value of the work been questioned by the court itself.

The arrest, registry, and investigation of cases are functions undertaken by executive or administrative agencies for the adult courts, but in the juvenile courts frequently performed largely or entirely by the court staff.

The juvenile courts' activities have not been confined to functions preceding trial. Practically every juvenile court deserving the name undertakes to place certain children on probation, under immediate supervision of the court's officers.

To the man in the street, probation means letting the boy go on condition that he behaves himself, with an officer to see to it that he does. The New York State Probation Commission defines probation as follows: "'Probation' is the term used in connection with the release of an offender under suspended sentence and without imprisonment, but under the oversight of a probation officer for a definite period and for the purpose of reclaiming him from evil courses." [1]

[1] This is to be distinguished from the so-called "parole" of the Manhattan court and from true parole, which has been defined as follows: "'Parole' is the term used in connection with conditional release from a penal or reformatory institution after a period of incarceration therein."

Mr. Homer Folks says:

"The work of the probation officer is inherently and essentially that of keeping all (the cases) under his care and in his mind continually. It is that of perfecting, step by step, an organized plan by which he knows all the time what is going on about all of these children."[1]

It is to be noted that these are more or less technical and administrative definitions of the probation process. The actual work is described better by Mr. Roger N. Baldwin, formerly head of perhaps the most efficient probation office in the country, at St. Louis:

"The probation process in essence is a process of education by constructive friendship. It presupposes an intense personal interest; it presupposes a perception of a child's needs in such a way that the child may be more securely set upon its feet by throwing about him every constructive force which the community has to offer. It means introducing him by one way or another to those activities which will enable him to spend his entire time rightly. The process does not require theories; it does not require book knowledge. It must never be in any degree sentimental, patronizing, or amateurish. It requires sympathy, tact, good humor, patience, and above all a thor-

[1] Proceedings of the National Conference of Charities and Correction, 1906, p. 121.

ough knowledge of the needs of child-life and the manifold ways in which to meet them." [1]

When probation officers first began to grapple with cases, they found that every child brought in represented the failure of one or more other social agencies to reach the child in time. Nay, they often found that the agency which should have kept the child normal simply did not exist. Juvenile delinquency is a sort of precipitate of all such forms of maladjustment. The probation officer was forced to become a Jack-of-all-trades or first-aid man. He secured for the child shoes, job, club, book, medicine, as the case demanded, in addition to supplying the primary need of moral education. Usually he had no time or thought to go deeper than the immediate need. Most probation officers still take their work in this way.

Wherever a community is especially lacking or inefficient in its child-caring equipment of a certain sort, whether institutional or legal, children needing that kind of care are likely to get into trouble in large numbers. Many a court, alert to such a pressing need, has at once undertaken to meet

[1] Quoted in *Preventive Treatment of Neglected Children*, H. H. Hart, ed., Chap. XVIII, p. 272.

the emergency with special funds or facilities for the purpose.

Among these extra activities undertaken by juvenile courts in connection with the probation office are employment bureaus,[1] recreational facilities,[2] placing-out departments,[3] widows' pension offices,[4] and neighborhood "preventive work" by the regular staff.[5] In some cases, work of these and other kinds is turned over to a greater or less extent to an auxiliary organization, usually closely identified with the court, but legally separate.[6] Of these, the Juvenile Protective Association of Chicago is the most active.

[1] Baltimore (formerly), Indianapolis (formerly), Cleveland, Salt Lake City, San Francisco, Vancouver (formerly), Toronto.

[2] Denver, Des Moines, Washington, D. C., Toledo, Worcester, Mass., Detroit, Grand Rapids, and Minneapolis, and formerly in Portland, Ore., Indianapolis, Columbus, Cincinnati, and Pittsburgh.

[3] Especially Pittsburgh, Chicago, Kansas City, Denver, Grand Rapids, Los Angeles. Other courts do placing-out work through outside agencies or without a special department for the purpose.

[4] Especially Chicago, Kansas City, Portland, Ore., Seattle, and the Ohio and California courts.

[5] Denver, Newark, Jersey City, Baltimore, Washington, D. C., Pittsburgh, Indianapolis, Chicago, Winnipeg, Salt Lake City, Portland, Ore.

[6] Brooklyn, Richmond, and Manhattan (volunteer probation organizations), Chicago, Indianapolis, Pittsburgh, Detroit, Milwaukee, Minneapolis, Kansas City, Denver, Oakland, and San Francisco, Cal., and (formerly) Portland, Ore.

Another phase of juvenile court work which has developed spontaneously and almost universally is the extra-legal handling of children "out of court" by the probation office. Children are given treatment or placed under supervision by common consent, without trial. Several courts handle as many or more cases in this way than through the regular channels.[1] This is partly to reduce the volume of business, partly to avoid the stigma of trial in the milder cases of delinquency.

In these cases it is the children and parents who are free from legal compulsion. Many courts have also established or coöperated with volunteer probation officers' associations, composed of persons who offer themselves for the supervision of such of the courts' wards as are assigned to them. In this case it is the volunteer worker who is ordinarily not subject to legal compulsion, and has no legal authority; and experience has almost universally proved the system a failure in the long run, if not from the start.[2]

[1] Especially Cleveland, Columbus, Cincinnati, Toledo, Grand Rapids, Chicago, Nashville, Des Moines, Seattle, Kansas City, Omaha, Denver, Salt Lake City.

[2] Boston, Jersey City, Yonkers, Buffalo, Philadelphia, Baltimore, Washington, Pittsburgh, Cleveland, Columbus, Toledo, Cincinnati, Indianapolis, St. Louis, Chicago, Denver, Milwaukee, Portland,

The activities so far described include most of the kinds of work undertaken by juvenile courts through the probation office. The judge himself sometimes undertakes to perform some work which properly belongs to the probation office. Ordinarily, however, he confines himself to the examination and adjudication of cases.

The nucleus of the ordinary business of a juvenile court is composed of cases of delinquency. Most courts also handle dependents.[1] The laws allow some courts to handle truancy cases as such,[2] and intrust to others the issuance or review of child-labor permits,[3] or even the enforcement of the child labor law.[4]

It is obviously impossible for every court and

Ore. An investigation of the New York Big Brothers' Movement's work made in 1910–1911 also shows only 10 per cent of good work. The Jewish volunteers seem to be more successful.

[1] Massachusetts, Maryland, New York, and New Jersey are exceptions. In New York some cases of "improper guardianship" handled by the children's courts are really cases of pure dependency. In some states (*e.g.* California) the definition of dependency includes much that is really delinquency of a minor sort.

[2] The courts of New York State, New Jersey, Pennsylvania, and Michigan, and of Cincinnati, Louisville, St. Paul, Des Moines, Kansas City, Denver, Portland, Ore., Winnipeg, and Toronto.

[3] Baltimore, Washington, D. C., St. Louis, Milwaukee, Los Angeles, San Francisco.

[4] Washington, Chicago, Salt Lake City, Portland, Ore.

probation office to attempt to undertake all these functions. In most cases the special activities have been the response to some crying need, along lines of least resistance and local expediency, without a clear-cut plan or theory as to the juvenile court's real function in our social economy. Juvenile courts were supposed to fill every gap in the child-caring system. Assuming the premises that probation belonged to the juvenile court, and should meet all needs of the abnormal child, the above is the logical proceeding. However, if this be granted, no line can be drawn short of a court administering all the children's charities. It would become a sort of "department of maladjusted children" — many of whom might have been kept normal had the community shouldered the task in time. Some courts actually state this as their ideal: they are all things to all men. But the theory leads in practice to makeshifts, overlapping, and friction, and to inefficiency because of the natural limits of money, staff, time, and strength.

Among all the functions so far enumerated there is not one which is essentially judicial in character, and therefore not one which it is absolutely necessary to have as part of a juvenile

court, so far as law or theory is concerned. Moreover, experience in many places shows that extra activities unduly absorb the energy of a court staff, and often detract from the respect in which it is held.

Bringing cases into court except for violations of probation is obviously the function of the police or preferably of the schools or special agents and social workers, or of parents. These can also file necessary petitions.

Were the schools equipped with school visitors, medical inspectors, and adequate records,[1] the court could obtain from them, as it frequently can obtain now from relief societies and social workers, full information such as is usually secured by the court's own investigation. The use by the court of the confidential joint registration bureaus established by social agencies in many cities would obviate much unnecessary investigation. Even for the facts of the particular emergency which led to the bringing in of the child, the court could call upon the school visitor, the observational class of a special school, and the medical inspector, depending upon the character of the case.

[1] In St. Louis the court now receives full reports from the truant officers on every case brought in by them.

While most detention homes retain a taint of the repressive spirit of the jail and are used by many judges as places of punishment, yet the best detention homes are much more like special schools, to which special teachers are assigned by the board of education. The children are under observation, they are stimulated to self-expression, and significant facts are reported to the court. In Cleveland, except for sleeping quarters, the regular truant school cares for the boys detained for juvenile court. There is no reason why all detention homes should not be administered by the public school system as observational classes, to which many cases could be referred without detention, where others could be detained by common consent, and where the remaining few might be placed temporarily by court order.

The securing of employment through juvenile courts would be unnecessary were the schools properly articulated with the industrial system through vocational training and employment bureaus.[1] The St. Louis court and others are already urging this solution of the problem.

[1] The systems of Gary, Ind., and Cincinnati are steps in the right direction.

The issuance of child-labor permits could be handled similarly or in conjunction with the above.

Clinical treatment should be a task of the school, the board of health, or the hospital.

Recreation is obviously the appropriate function of the school and social center, the park and playground, and the home. In connection with a court it simply places a premium on delinquency. Similarly education or the direction of reading belongs to the school, the home, and the library; and "preventive work" of various kinds to the police or to special neighborhood agencies such as the church and the settlement. Such features are too often used simply as political capital by the juvenile judge.

The placing-out of children, the care of dependents, and the probation of truants belong respectively to special agencies for the purpose — the placing agency, the relief society, and the school system. Only in disputed cases need there be any appeal to a court for any of these processes, and then not for administration but for sanction.

Now, it is noticeable that there is not one of the special tasks taken up by different courts working on a policy of expansion but what has

already been successfully handled somewhere by other and purely administrative agencies, for the most part by the school.

Were they universally so administered, there would remain for the probation officer only the coördination of these efforts and the intensive personal work with the individual child. Even this function would seem to be educational in essence. Many a truant officer and social worker is already doing similar work either with or without the sanction of the juvenile court, but not under its immediate administration.

CHAPTER III

Politics versus the Juvenile Court

The irreconcilable antagonism between the spirit of partisan politics and the spirit of social work cannot be set forth too forcibly and explicitly. Politics in American cities is too apt to mean the division of parties, not along lines of broad public policy, but in a selfish struggle for control of the spoils system, with its attendant chain of quasi-feudal obligations and personal favors.

While the general policy of courts, especially appellate courts, may be subject to ultimate popular control through a centralized responsible government, yet there is certainly nothing about the disposal and treatment of intimate family problems in any national party's platform. There is nothing in the nature of juvenile courts, any more than of departments of health or of playgrounds, to justify a partisan division over them.

The moot question as to whether a juvenile judge should be elected, or appointed, or selected

by a bench, is bound up with the same question in regard to all courts, but both questions take their rise in the danger of politics: which method will best avoid an unfit choice?

Where the juvenile court either in itself or as part of a larger court is an elective office, especially if the term be short, it is bound sooner or later to get into politics (*e.g.* Columbus, Denver, Cincinnati, Louisville). The judge is tempted to use his work to exploit himself; the probation officers are called on, or voluntarily take part of their time, to help the campaign; and the judge is tempted to curry favor before elections, with politicians, newspapers, or social workers. The staff is apt to be subject to change at any time. Yet at least two elective judges have held their positions in spite of attacks, which have been the more violent, perhaps, because of the sentimental inertia of reëlection which a juvenile judge can often accumulate, for good or for ill.

The places in which the elective system has caused most trouble for the juvenile court are Louisville, Denver, Cincinnati, Columbus, and Buffalo.

In the other methods mentioned the elimination of politics is at least a possibility, and there is

more centralized responsibility upon which public opinion can be brought to bear.

If the judge be appointed, there should be some provision for removal in case of inefficiency, or for a preferential reappointment of the same judge after a period of, say, two years. However, it is exceptional as yet to find a properly qualified man willing to take life tenure as a juvenile judge. It is not likely, therefore, that Boston's plan for its central court will be duplicated in many places.

The method of election by the members of a bench or group of benches, as in St. Louis, Chicago, Milwaukee, Portland, Ore., Cincinnati, and in the states of California, Pennsylvania, and elsewhere, is more or less subject to the danger of a rotation system being established,[1] but it involves least danger of political influence, since such a bench, besides being of fairly high caliber, is ordinarily of long or overlapping tenure, is apt to be bipartisan, and therefore acts as a check on the juvenile judge. It is the most usual system.

Politics may of course affect the court's work directly, but the miscarriage of justice in such cases is only less bald and crude than when it

[1] The method of assignment by the Chief Justice, used in New York City, is subject to the same criticism.

affects *all* the cases through the influenced appointments of unfit judges or officers. A party plum should not be thus made of the lives of little children. Social workers in their organized groups should see to it that this is one of the first strongholds to be taken from the enemy in a struggle which is already opening in nearly every department of city government. This is one feature at least in which many western juvenile courts fall behind most eastern courts.

Only from New York, Jersey City, Pittsburgh, Columbus, Cincinnati, and one or two of the outlying courts of Boston have accusations been heard of influence in the disposition of individual cases. In the selection of their staffs, however, of the courts visited only those in Jersey City, Newark, Pittsburgh, St. Louis, Grand Rapids, Cleveland, Rochester, and Boston seemed to be free from suspicion of political influence. In Louisville, Cincinnati, and Columbus, among others, the matter of politics in the juvenile court is somewhat notorious. Chicago has been free from political appointments except for the "60 day appointments" in the dark days during the investigations of 1911–1912. The attack on that court during 1911 was almost obviously maliciously political.

Even where political influence has not entered a court, there are courts, like St. Louis, Detroit,

and Rochester, which live in constant fear of it.[1]

Once politics has entered a court, it is never safe from attack, especially if it has made mistakes or has made enemies. Criticism favorable and adverse of the courts in Columbus, Cincinnati, and Denver, to cite leading examples, is so mixed with political prejudice that the truth is difficult to winnow out. Judges and others in an increasing number of cities realize the value as political capital of the picturesqueness associated with the juvenile judgeship, and have exploited it to secure reëlection, though in Ohio, for example, the office is technically that of Judge of Probate or of Common Pleas. The successes of a juvenile judge are legitimate political capital only after he has given up the work; else political capital will also be made by his enemies of his mistakes, and the prestige of the court will thereby suffer.

A form of influence closely allied to the political both in its effects and occasionally in its methods, is the ecclesiastical. This matter is one no longer

[1] Cf. *Treatment of Juvenile Delinquents*, by Richard Roy Perkins (Rockford, Press of C. F. McIntosh, 1906, copyright, University of Chicago), p. 45.

to be evaded. If there is undue influence, it matters no more what the church is and believes than what the party is, or claims it stands for. It is good policy to provide by law for commitment according to religion so far as possible, if such custody is to be in private hands. But there is no reason why all institutions should be so divided, as in the New York City system, and even less reason why, except as a matter of usual preference in the routine of the probation office, the division should be carried into the field of probation. The opposing view is part and parcel of the theory which would, if possible, carry the same religious division into the field of general education. It has been found in Chicago that intelligent probation officers of every faith may be trusted to care for the essential religious needs of children of different belief; yet the absence of religious segregations in that court is one of the motives to which the recent attacks have been attributed. As in the matter of politics, few courts are accused of favoring any given ecclesiastical body in their case work (Baltimore, Washington, Toledo, and one of the outer courts of Boston are exceptions); but many more are dominated by or in fear of it, each court

naïvely considering itself exceptional in this respect.

Feeling is naturally stronger in the cities where denominations are strongly organized and set off from one another, and it is hard to untangle the truth under such circumstances. It has been increasingly borne in upon me, however, that there are certain groups in our large cities who fear any official interference with the care and custody of children, institutional or otherwise. To protect this interest they desire to control the policy of official agencies, or, if religious division be in a measure established, they resent interference by the state in their share of the work, even though that interference apply strictly to the non-religious phases of the child's care.

That an organization is primarily political or religious is, after all, not the essential element in this problem. Any group, whether it be a women's club, or a fraternal order, a union or an industry, or a strong charitable society or institution, if it attempts to dominate unduly or in its own interest the policy of a court, is promoting division rather than harmony of interests in the child-caring system.

The civil service examination has been used in New York City and State, and until recently, in Chicago, to protect the court from political influence in the selection of probation officers. This method succeeds where well-qualified candidates have been informed of the examination and persuaded to take it; where the eligible list is frequently renewed; where the examination is made up by those well acquainted with standards of probation, the papers marked by a committee equally well qualified, and the candidates graded largely by personality, training, and allied experience.

St. Louis, since the law of 1909, and Chicago since the courts have declared the probation officers not subject to civil service, have substituted a competitive examination of the kind mentioned, run by the court itself, and in the case of St. Louis, sanctioned by law. This device works admirably, and there is *no reason why any court should not use this method*, as a matter both of aid and of protection to the court, without waiting for specific legislative provision.

In Utah, a state commission handles this matter. In other places,[1] the work was kept out of politics for a longer or shorter time by a voluntary association which undertook to pay the officers

[1] Philadelphia, Pittsburgh, and Chicago are examples.

and therefore had some influence in their appointment.

In California and Kentucky, with legalized juvenile court advisory committees, the committee is often a protection to the court; but if politics gets into the committee itself matters are still worse.

In general, the only safe protections against unfit appointments and political influence are a live and organized body of public opinion, and centralized responsibility, combined with the civil service device mentioned above, where there is counter-pressure to be met.

CHAPTER IV

The Police and the Juvenile Court

The introduction and trial of a child's case in juvenile court, compared with the procedure in an adult civil or criminal suit, is, or should be, a simple affair. Yet it is a mistake to think that merely because it is simple and informal, it may safely be helter-skelter, irregular, undignified, or without regard for law.

Several well-defined processes are involved in the preparation of a case.[1]

(1) Apprehension and coöperation by the police.
(2) Preliminary hearings.
(3) The filing of the case in the court.
(4) The investigation by officers of the court.
(5) The notice of trial to the parties.
(6) The method of bringing in the parties.
(7) The arrangement of evidence.

The first of these stages is to be taken up in this chapter.

[1] For summary of laws on these points, to 1909, see *Juvenile Court Laws Summarized*, H. H. Hart, ed., pp. 127 ff.

When it is possible to avoid it, no child should be arrested by a regular police officer. Assuming the theory of juvenile irresponsibility, even delinquency, as being due in a sense to some kind of neglect, is a condition for which parents rather than children are accountable so long as they retain the rights of parents over their children. If therefore it is necessary for children to be brought to court, they should be brought on petition by their parents or duly qualified social agents. The police are quite within their functions, however, in arresting any child, *flagrante delicto*, violating order or injuring others; and a large part of the juvenile court's business will, of course, always be brought in in this way.

The police should attempt, besides, to hold back cases as long as possible by warning or by taking the child to its home, without a court experience. Indeed, so far as it is a matter of law and order, this is, under ordinary conditions, the duty of policemen rather than of probation officers, who have enough to do in their regular work, without going out of their way to do neighborhood policing.[1] Probation officers should have

[1] If the district system is used (as in Chicago, Pittsburgh, etc.), probation officers are less specialized and more like neighborhood

the powers and badge of a peace officer, and have in most states, but the power should be used rarely except, of course, for violations of probation, which may not be violations of law and order. The probation officer should not be primarily a repressive or compulsive agent.[1]

In Washington, D. C., the probation officers have no power to arrest, their duties being prescribed by the judge (D. C. 34 U. S. Statutes at Large, 43, Sec. 4), who was until recently opposed to this power. This court is exceptional in this respect. In Wisconsin, Washington (state), and some other places, they have this power only for children's cases. Utah (1907, Ch. 39, Sec. 11) on the other hand definitely obliges the probation officer to file complaints against any case of delinquency or contributory delinquency which may come to his notice.[2] In St. Louis the probation officers when it becomes necessary arrest children who are already wards of the court but insist on the police bringing in cases of first offense. In Cincinnati[3] and Des Moines[4] there is an undue

workers. They may more legitimately do preventive work under these circumstances, but should leave repressive work to the police. The probation officer should be respected but not feared.

[1] These same remarks adapted to their special work apply to truant officers.

[2] Cf. also Nashville, Tenn. (special juvenile court ordinance).

[3] Report of Bureau of Municipal Research, 1912.

[4] Report, 1912.

proportion of police work done by probation officers.

It should be the task of the juvenile court group to educate the police, at least to the extent of persuading them to coöperate with the court in the proper handling of children.[1] The patrol wagon or van need not and should never be used, as it still is in Columbus, for example. In St. Louis and elsewhere the street cars are used. If it is possible, the child should be taken by the officer direct to his home, and the parents, not the child, should then appear at the police station (if that seems necessary after warnings), to give recognizance for their child's appearance in court. This process should then be made as simple as possible (though enforceable and to be strictly enforced). Money bail should not be demanded, for it has as its alternative the locking up of the child, regardless of character, for its parents' poverty or lack of friends, and it affords opportunities for political favors.[2] Most juvenile court laws already follow these recommendations.

[1] Cf. Bernard Flexner in *Preventive Treatment of Neglected Children*, H. H. Hart, ed., pp. 286–287.

[2] New York City is the only place where definite instances of this difficulty have been reported.

In some cities the child is taken by the officer directly to the detention home, but in most places, first to the station, where his name adds to the credit list of the patrolman either on the regular blotter with older offenders, or perhaps on a separate book. Some police record is, of course, necessary, but it should not be public, and it should involve the child as little as possible in the too inclusive stigma of a "police record." In several places (*e.g.* Jersey City, Elizabeth, Cincinnati, Detroit) newspapers get stories from this source when they cannot get them from the court.

The ideal system would seem to be a police record maintained in the detention home for all cases needing detention, other cases being eliminated without trial. In most places the police have not yet been persuaded, however, to take children to their homes instead of to the station house.

If the case seems to need detention, or if the parents are unavailable, children should be taken directly to the detention home, on foot or by car, and by a plain clothes man, if possible; a record can then be sent from the detention home to the police station. Should the parents appear

later, the superintendent of the shelter should have power to release the child in their custody on written promise to produce it in court, under penalty. Neglect cases should be brought in for detention by special plain clothes details or by the agents of some humane society.

The attitude of the typical policeman might be illustrated by many an incident. For example, a boy of fourteen or so, no angel, had been placed on probation for a second-story job. He was returning from a report in a chastened frame of mind when the neighborhood officer shouted at him, "Hello, you little ——, whose house are you going to rob next?" The boy returned in tears to the probation officer, utterly discouraged by the stigma thus placed on him. Through the probation officer's efforts the police of this particular town are very coöperative, and in this case the officer was severely penalized and, seeing the error of his ways, has helped the court ever since.

At one detention home, the officer delivering a child for keeping, occasionally makes some remark before the boy, such as "Lock him up, he's a bad boy." Perhaps he is, perhaps not; but

the power of suggestion contained in such an expression, or in the handling given to boys by some police attendants and detention home officers (*e.g.* in New York City), is calculated to make an ordinary boy recalcitrant.

For the reasons implied in preceding paragraphs, it is wise that policemen should not act as probation officers. Their peculiar task is the preservation of public safety — not reformation — and their training under present conditions seldom fits them for special juvenile work.

The *Minnesota* law is one of the few which explicitly forbids this practice. *Chicago* has had for years a large detail of police probation officers (recently 43) though the law did not originally contemplate their use. As at present organized, however, they do exclusively police work — complaints, arrests, custody, etc. — much as they might were they still under the police department. It has been shown by Prof. H. W. Thurston and others that they were not so successful with probation work as the ordinary probation officers, even if allowance be made for their having somewhat more hardened cases to handle. The experience of other cities has been similar. *Indianapolis*, *Los Angeles*, *Vancouver*, and *Seattle* are among the few cities now using police for actual probation work.

Fair coöperation with police, though not by any means strictly according to the standards set forth above, has been secured in Seattle,[1] Vancouver,[2] Winnipeg,[3] St. Paul,[4] Los Angeles,[5] San Francisco,[6] Denver,[7] St. Louis,[8] Des Moines, Chicago, Milwaukee,[9] Grand Rapids,[10] Detroit,[11] Indianapolis,[12] Louisville,[13] Cleveland, Philadelphia, Wilmington, Newark, Trenton, and Springfield, Mass.

The *St. Louis* court has an excellent working scheme so far as it goes — full reports being sent to the court with every child, and many cases being eliminated by the police.

In *Indianapolis* a conference with the police held in the early days of the court is said to have helped to a mutual understanding. As in Winnipeg and Boston, children are taken direct to their homes, not to police stations.

In *Columbus* and *Louisville*, as in many other

[1] Report, 1911, p. 3, etc.
[2] Report, 1912, p. 19.
[3] Report, 1911, pp. 128 ff.
[4] Report, 1908, p. 16.
[5] Manual, 1912.
[6] Report, 1911.
[7] Pamphlet, 1913.
[8] Report, 1909, p. 10.
[9] Report, 1910–1911.
[10] Report, 1912, p. 15.
[11] Police Report, 1912, etc.
[12] Reports, 1903–1905, pp. 8–9; 1910–1912 also; Children's Aid Association Report, 1908, p. 25.
[13] Report, 1909, p. 39; *Preventive Treatment of Neglected Children*, p. 287.

places, relations are friendly, but the police do not take the court too seriously.

The *Philadelphia* police have reported arrests directly to the district probation officer, who thereupon investigates the case. Children are taken direct to the detention home, as in New York, and are usually kept overnight for magistrates' court the next morning.

In *Springfield*, Mass., the police voluntarily bring in unofficial cases. Mr. North, the probation officer, in a manuscript report, says: "It is a pleasure to speak of the courtesy and hopefulness with which these gentlemen regard the possibilities of unofficial juvenile work." [1]

Special officers have been detailed from the police force to the work of the juvenile court in San Francisco, Los Angeles, Seattle, Vancouver, B.C., Winnipeg, Toronto, Detroit, Indianapolis, Louisville, Baltimore,[2] and Denver.[3]

Coöperation with the police has not been well worked out in Toronto,[4] Detroit, Boston,[5] Balti-

[1] The only drawback to such a system from a doctrinaire point of view is, that there should be no necessity for policemen to bring a case to court for informal work. They should refer such cases to other agencies until they are bad enough to require compulsory treatment.

[2] Report, 1909, pp. 6–8.

[3] Pamphlet, 1913, p. 8. Denver was a pioneer in the matter of police coöperation, ten years ago.

[4] Cf. Report of the Treatment of Neglected Children in Toronto by Chief Inspector Archibald, 1907.

[5] Cf. 4th Annual Report of the Police Commissioner for the City of Boston, year ending Nov. 30th, 1909, p. 15.

more, Pittsburgh,[1] Washington, Columbus, Cincinnati, and New York City.

Coöperation is more than working together; it involves a mutual understanding and a common point of view. In many of these situations there are two sides to the matter. The police are certainly in a position to know whether juvenile disorderliness is increasing or decreasing. And while the change may be due more to general social conditions than to the degree of efficiency of the court, at least they can judge of children's attitude toward the court; and the point of view of the police is apt to reflect that of the children. Again, the court may have failed to take the pains to present its peculiar purposes and needs clearly and persuasively to the police authorities or patrolmen. The police everywhere have long been belabored with abuse, without much effect. On the other hand, where tact and encouragement have been tried, they have frequently produced an intelligent response.

Whether or not we agree with criticisms of the police, their attitude must be recognized objectively as an important factor in the success or

[1] Cf. R. S. Wallace, in Proceedings of the Pennsylvania Conference of Charities and Correction, 1911, p. 29.

failure of a given court. A chain is no stronger than its weakest link. If the police, who are responsible for much of the grist of the juvenile court, bring in cases too soon, or too late, or handle them unintelligently, the juvenile court, like any other court, must suffer in social efficiency.

CHAPTER V

The Place of Volunteer Probation

So-called "Volunteer Probation" is a subject on which very little has been written. Practically no reliable research is available bearing directly on this important work and its relations to other agencies and methods of treatment.[1] Yet much "probation work" in American juvenile courts is still carried on by volunteer workers.

Volunteer probation ordinarily means, not the voluntary reporting of children to the court, though that is also in vogue in Toronto, Denver, and elsewhere; but the reporting of children to volunteer officers by order of the court or by instruction of the probation office.

In New York City and State, in Indianapolis, and in Cincinnati, it arose and has lasted because of the great difficulty of getting sufficient paid officers.

[1] A year's study of the work of the Big Brothers Movement (Manhattan) was made by the writer for the Russell Sage Foundation in 1910–1911.

"Danger in using this service, as shown in many places, lies in the gradual growth of the idea that the makeshift is better than the permanent arrangement. Several systems employing large numbers of volunteer officers gradually came to the belief that the volunteer was a better worker with the child than a paid officer, the argument being used that the paid officer did his work in an impersonal and professional manner, lacking the human interest and fresh touch of the volunteer. It is, of course, clearly understood that if such a situation arises, it is due, not to the merits of one system as opposed to the other, but to the qualifications of the individuals selected." [1]

Where volunteer work has been started by social workers, it has ordinarily taken the form of securing the funds for the payment of one or more workers, because the work was best done by paid workers; and their further efforts have been toward having the community take over the burden. Some religious organizations have also hired paid workers, to relieve themselves of the responsibility, perhaps.

But volunteer movements started by volunteers have usually had behind them the religious motive

[1] Extract from Report of the National Probation Association (Ms. unpublished, 1913).

of individualistic social service. Nearly every court has used volunteers at the start, of necessity. We shall see that there may be a legitimate place for them still in certain communities. Perhaps, however, this chapter may be of some service in putting an end to the false reputation such work has acquired, which in many places is leading astray the strivings of courts and citizens to "improve conditions." [1]

In conferences and in written discussions of probation, the use of volunteers is still a question somewhat mooted. In charity work also the question was early raised. The enthusiasm and leisure of the voluntary workers are valuable assets. How can they best be utilized, and at the same time be kept sufficiently under control to avoid mistakes due to lack of training and of faithfulness? Many charity societies have worked out this problem to their own satisfaction. That the courts have in some cities fallen behind the charitable associations in this, is due partly to the fact that in the case of probation the volunteers have in many places been separately organized.

[1] In Louisville, for example, the Child Welfare Exhibit in 1912 held up to that city the shining example of the New York Big Brothers Movement. As a result volunteer work, without proper standards, revived there.

This has been necessary and desirable when the court furnished no supervision, but when a paid court staff is added, the adjustment becomes difficult.

It is not only in the matter of volunteer service that probation has fallen behind charity. Until recently only a few most progressive courts have developed any real technique of systematic home-visiting, family treatment, coöperation, and records. The lack of thorough work in all these directions is most flagrant in the field of volunteer probation, where the difficulties and the amount of skill necessary have not been realized.[1]

These opinions also hold largely true of other cities. In the following cities, where volunteers have been used, the consensus of social workers and usually of court workers is that volunteer work has failed, either because of inadequate organization, assignment, and supervision, or because of the indiscriminate use of all comers, many of them untrained or too busy:

[1] In this matter the opinions of Mr. Bernard Flexner and Mr. Homer Folks are in substantial agreement. The above analysis and conclusions were made independently, and in some points, as will appear, they disagree with or go beyond theirs.

Judge Mack advocates the use of volunteers, but realizes fully its danger.

Boston, Jersey City, Yonkers, Buffalo, Philadelphia, Baltimore, Washington, Pittsburgh, Cleveland, Cincinnati, Indianapolis, St. Louis, Chicago, Portland, Ore.

A word must be said about the Jewish work. There is something in the solidarity of responsibility among their people which has enabled them, in every city where they have assumed the responsibility, to handle adequately on a volunteer basis, or through their charities, almost without aid of the court, all of the relatively few Jewish delinquents on probation.[1]

Undoubtedly the local situation must determine the extent to which volunteers can be utilized. Some courts[2] have tried volunteer service and given it up because of the difficulties in supervising it. But in such cities the paid staff is large enough to do much of the work that might be done by volunteers, or else this work is left undone. It may be, therefore, that we should condemn the

[1] Manhattan, Rochester, Buffalo, Boston, Toledo, Louisville, Columbus, and Cincinnati are examples. In Louisville, the Jewish people are apt to refer children direct to the Federated Jewish Charities, and few get to court at all. St. Louis is the only place where poor work of this kind was found.

[2] Boston, St. Louis, Chicago, Philadelphia, Pittsburgh, Portland, Ore., Cleveland.

use of volunteers in some circumstances, and yet find for them a very essential place in other systems.

While the evidence against extensive volunteer probation as compared with an adequate paid staff is overwhelming, the situation is such in many a place that a sufficiently large office staff will be slow coming, and the services of volunteer officers are meanwhile indispensable. In order, then, that the somewhat discouraging accounts given above may not seem to be entirely destructive criticism, let us try to find the legitimate place of volunteer probation officers. A clear view of their problems will go a long way toward a conception of the direction in which their highest efficiency lies, and with this in mind it will be possible to offer a few constructive recommendations, which, if the conclusions are frankly accepted and acted upon, will, it is thought, help to secure this efficiency.

An old argument says that one soul saved is worth any expense; but it only holds if the money and the effort could not be used better and two "souls saved" where one was saved before. The use of volunteers is a problem in social *economy*.

It is felt that volunteer probation agencies are at present involved in serious problems because they have not understood the full scope of probation and the divisions into which it naturally falls. In Chapter II (p. 11) are given some legal and practical definitions of probation which should be studied in this connection. These definitions, however, do not define the distinct field of volunteer probation. It is well, then, that definitions of the different kinds of probation and probation workers be worked out in which "volunteer probation" may be distinguished from other types of work now roughly included in the larger field to which the word has been extended, but which the general definitions given do not entirely cover.

Those who do "probation work" may be divided into three groups: 1. The official probation officers paid by the court. 2. The probation officers, with or without official authority, who are hired and paid by private funds. 3. The unpaid volunteers. It is the relations of the last two, especially the third, to the work of the first, which are to be the subject of discussion in what follows.

Few cities have the same combination of these three groups. Moreover, the numbers, the pro-

portions, the interrelations, and the methods of the different kinds of workers have been determined more by local conditions than by a clear-cut conception of the proper functions of each kind of worker. Indeed, it is the pressure of the local situation which has often prevented this clear analysis from being made; it has even fostered positive confusion or antagonisms, and hence false steps or hindrances to progress.

For example, we find unpaid volunteers filling the gaps where privately paid or official workers are lacking; or privately paid workers doing the work of a court staff, as well as of unpaid volunteers, if the latter are negligent or few; or we find one or two of the groups entirely lacking. We find unpaid volunteers working on cases assigned by the court to them exclusively, without mediation of a professional worker. Elsewhere we find them working under the supervision of privately paid secretaries or officers, or under the supervision of a publicly paid chief or his assistants; or we find them taking complete charge of certain cases, sometimes before a professional officer has handled them, sometimes after the latter is through with them, or has not enough time to continue them. Or, court officers and volunteers

may work simultaneously on the same case. Assignments are sometimes by sex, sometimes by district, by age, color, offense, language, or religion. Methods of treatment and of administration are heterogeneous; kinds and degrees of training in each group of workers are varied.

It is no wonder that a clear delimitation of the function of the volunteer has not grown out of the many existing systems. Moreover, with such variations in the forms and methods of volunteer probation, it would not be right to condemn or approve volunteer probation on the basis of a definition taken from any one system.

Let us look, then, into the work of probation itself, regardless of the type of worker who performs it. Two kinds of services are distinguishable, though the line between them is not to be drawn sharply, and the same act or worker may fulfill more than one function.

One kind of service may be called for convenience that of *compulsory reformation*, for the purpose of social defense. Assuming that investigation and adjudication by the court has proved a child fit for compulsory probation, he should be made to feel, even by the kindest probation officer, that there is always reserve force back of

the workers' efforts in his behalf, deterring him from further wrongdoing; he should be compelled also, as far as possible, to make restitution for what he has done. All the organized agencies available must be brought to bear on him to improve his environment and through that his character. To make this phase of the work effective, the worker should have authority for investigation, power over the child, and access to all the social agencies of the community. He should have training and knowledge, and should be able to devote his entire time to the work. It is clear that such work is the proper field of the paid professional workers holding the sanction of the court, or of the paid agents of other social institutions (truant officers, etc.) whose decisions or plans the court may care to sanction. No other type of worker possesses the necessary qualifications.

The second kind of service is analogous to that of the *friendly visitor* assigned by relief organizations to supplement and follow up the work of the expert investigator and relief agent. It is this field which is peculiarly suited to the qualifications of good volunteer probation workers. No matter how big or how efficient the paid staff, there will always be room for the carefully chosen

worker who will visit the home and make a chum of the boy, trying always to develop new lines of wholesome interest and ambition, performing friendly offices without pauperizing, and in general carrying out the details of constructive work beyond the point where the paid workers stop. Such work does not need authority, nor does it need such highly specialized training as professional probation work demands. It can well be done by settlements and other social agencies or by individual men or women, if carefully selected and advised. This is the legitimate field of volunteer probation.

It is not to be inferred from the above analysis that kindliness or friendship are to be absent from the relations of the paid probation officer to the child. On the contrary, these are an essential part of both kinds of work. It is the poor quality of court officers and procedure which has brought about the idea so evidently in the minds of many good people of upper and lower classes alike, that a man "from the court" cannot gain the confidence of his wards.

Nor is it to be inferred that under no circumstances should volunteer probation workers attempt to perform the functions we have designated

as the appropriate field of the professional worker. Even in an ideal system both paid and unpaid workers would overlap somewhat in their functions as situations arose in particular cases. Moreover, in cities where (as in New York) the court had until recently no official probation staff, it has become the duty of private organizations to fulfill both functions at once, as best they might. Elsewhere, in the absence of volunteer probation associations, professional workers, paid by the court or by organizations, do a great deal of work which might be done by volunteers. Again, workers paid by private organizations often supplement or take the place of a staff paid by the court. Indeed, where a paid court staff is insufficient or lacking, such privately paid workers are in many cases a partial adjustment to the situation on the part of those organizations which see partly or wholly the inherent difficulties of attempting to have unpaid volunteers do work which involves training, knowledge, full time, responsibility, and authority.[1]

[1] Even in a system in which an adequate court staff was performing all the functions which involve authority, the secretary, office executive, or court representative of the volunteer organization should have power to compel a boy to visit the central office. But this power should not be given to the Big Brother himself, as there

But if the overlapping is too frequent, there is likely to be a confusion of functions, the primary and secondary being undistinguished. Under such circumstances, such agencies either tend to grow complacent and think no paid workers or court staff could perform the work more efficiently than the volunteers; or, by contentedly continuing the double work, they breed in the court and in the public the same confusion of ideas in regard to the two kinds of probation work, or make the court and public loath to expend more funds on a more efficient system.

If there has been any realization of the fundamental character of their difficulty, it has acted in a curious, circular way, so that their difficulties, though in a way self-imposed, are placed to the credit of the volunteers by showing what has been accomplished in spite of obstacles. Much more credit would be due if they showed the public that in a part of their work they are only substitutes, and then insistently demanded relief from

is a certain value in the voluntary relation which may be developed between man and boy which would often be lost if the volunteer had the authority which the supervising probation officer would already furnish sufficiently, if it were needed. With the paid agent of a school, or other institution, such authority may appropriately be given for each case as it comes up.

the burden. To some extent the more able the secretary of such organizations the more the inherent difficulty is obscured. When private agencies thus perform services which would better be done by a court staff, they should keep constantly in mind, and constantly emphasize, that in this particular part of their work they are acting as stop-gaps, and that more complete provision by the court for its share of the work will leave them free to develop their own proper field more efficiently.[1]

Apart from criticism of their half-unconscious attitude toward official probation, any judgment upon volunteer probation movements should be based on their work in the field in which they

[1] Yet the New York volunteer movements, for example, did not for a long time realize sufficiently the separate need for both kinds of workers. They have not realized the fundamental difficulties unpaid workers are under in attempting to work without a paid official staff, or in trying to do the latter's work. They have not even fully realized that they are not doing this business as well as it should be done, — not necessarily from negligence, but from insufficient training, time, money, and authority. In doing regular officers' work they lessen the energy which might go to the improvement of their own legitimate work. The establishment of a more comprehensive system was hindered because enthusiastic reports, without proper emphasis on the distinction and needs above mentioned, confused the volunteers and the public into feeling that everything necessary was being done.

rightly belong. While their initial purpose and some of their efforts have lain in the other field, yet the larger part of their activity has been in the field of legitimate volunteer work. They drift into it because it is the kind of service unpaid workers naturally perform best.

But even here are to be found certain difficulties which confront a volunteer system, first in the work and second in the organization of it. The inherent nature of these difficulties has not quite been grasped by those who still support or engage in the work.

In the legitimate field of volunteer probation, the difficulty with the *work itself* is that, like the work of the professional officer, it demands personalities tactful, democratic, and magnetic, together with a certain kind of knowledge and training in order to make it effective. But in the volunteer associations of most cities, good will, good character, fair position, and a certain amount of appearance are all that is demanded. No standards of efficiency in a technical sense have been developed.

In many cases, the choice of men is not only unsuccessful, but it is wrong that men whose social service in business, profession, or civic activity

is efficient and valuable should be persuaded to waste their time on work for which they are not fitted by temperament or training. The "hard-headed business men" who, it is occasionally claimed, compose most of the membership are unfortunately no more free from sentimentalism than men in other professions.[1] Sometimes extremes meet.

In New York, Washington, D.C., and elsewhere, volunteers have been recruited largely from the churches, with not much choice as to training or natural fitness. Men from "uptown" churches are apt unconsciously, and with best intentions, to take a patronizing attitude. They are apt to "pauperize the will" of their charges, or to put a premium on delinquency. Moreover, the religious enthusiasm upon which big brothers movements have to some extent relied is very close to a kind of overconfidence which more cautious social workers almost envy at times, but of which they see the shallowness and danger. If a large force of workers is used, it is very difficult to train all of

[1] The service which business men can render in securing positions and other physical or social advantages for the boys are of course valuable — perhaps the best work of the Manhattan Big Brothers Movement being in this line for this reason.

them sufficiently, or to find enough already trained; and with unprepared workers there are serious inherent difficulties which show in the results. In several cities[1] an excellent set of suggestions is given to the worker, but he is given no further training, and is not bound by recommendations.

"If volunteers are used, the number of probationers that such an officer can oversee becomes important; the fewer children given to a volunteer the better. One child, if the system can be held down to it, is better than two, and few volunteers can be found whose time will permit them to look after more than two. Opinions differ as to the number of children to be given to one volunteer officer. Miss Graydon (former chief probation officer of the Indianapolis court) places the maximum at two, while in Cleveland as many as three are given some officers. Mr. Witter, [former] chief probation officer of the Chicago court, is of the opinion that the number is to be determined by the paid officer under whom the volunteer works. It may fairly be assumed that few volunteers have sufficient leisure to give the

[1] Newark, Grand Rapids, Louisville, Indianapolis, and Greater New York — Manhattan, Brooklyn, and Richmond boroughs.

necessary time to more than one child. There may be a few cases of zealous workers who can effectively handle two children, and it is only where the volunteer officer is giving practically all of his or her time that this number should be exceeded. Where the number is largely in excess, failure is inevitable." [1]

If we assume an indefinite number of equally good volunteers, the fewer boys to each the better, to be sure. The writer is of the opinion that if there is a difference in quality, the good workers should be urged to take just as many cases as they can handle adequately. Mr. Flexner is right when he says that there are few such volunteers, but they should be found and more fully used in cities where they are needed.

The slogan of volunteer probation movements, "one man, one boy," sums up succinctly the individualistic premises upon which the work is based. The motto is plausible, and what truth is in it should be recognized in making assignments: the qualities and ability of the workers should be gauged to their respective "little brothers." The real essence of the "one man, one

[1] Mr. Bernard Flexner, in *Preventive Treatment of Neglected Children*, p. 273.

boy" theory is that the treatment be adapted distinctly to the individual case. Every boy is different, every family is different, every "big brother" is different from every other.

But there is danger that the formula will associate itself with the traditional attitude of criminal law, which conceives of the delinquent as a unit morally independent of his environment. Here, again, volunteer probation has fallen behind other fields, which have learned to look at social problems as plexuses of many causes and conditions. It is a mistake to suppose that the example of a single good man seen at scattered intervals can radically influence a boy in a sordid environment, unless that man has been taught to take into consideration and handle the family in its relations with the house, the street, and the district, as in a true sense parts of the boy he is responsible for.

A steadier and more efficient corps of workers might be developed if volunteers were recruited chiefly from the already trained social workers, who in each district are familiar with the surroundings of the boys. To some extent the good citizens of a bad neighborhood, if there be any, may also be enlisted with good results. These

two classes have the almost indispensable advantage of knowing the neighborhood traditions and point of view; of knowing the boy's temptations; of being able to secure for him whatever opportunities there are for wholesome recreation; and of knowing the boy's family as a unit. It should often be possible to find in this way "big brothers" who have previous knowledge of the family they are to help. Such a policy would embody at the same time the value of the "special assignment" or "one man, one boy" plan, and the advantage of the treatment of cases through and in the light of their whole social environment.

The preceding discussion has shown the difficulties in the *work itself*, if done by unprepared workers such as must be chosen if a large force of men or women is used. In the *organization* of such a system there are also inherent difficulties. If the volunteers are organized independently of the court, their most pressing problem is the matter of supervision.

The case records of volunteer probation, whether at the court or in a separate office, should be sifted more carefully to keep them up to date, and should be kept more in detail than they usually are, including the family reports of charity and other

societies, in coöperation for mutual efficiency. The family, not the boy, should be the unit of treatment.

All volunteer associations organized independently of the court should demand monthly reports of their workers.[1] Workers unwilling so to report should be dropped. We suggest, also, the possibility of employing visitors, in default of an adequate official probation staff, to call upon the volunteers, consult with them in regard to their boys, encourage the asking of advice, and see that the work is being properly followed up. Their report should then be filed with the central office and acted upon at once. Such a system would in itself make the workers feel more responsible and take more interest, and would reduce the number of cases in which transfer to another worker seemed needful; but wherever the desirability for transference did show itself, it could be met without delay.

To these "visitors," or whatever it seemed best to call them, should be given also the task of investigating the home of every boy, so that each family might be sized up by a case-work expert

[1] The follow-up system used by Mr. Kaminsky, secretary of the Jewish Big Brothers in Manhattan, might well be copied elsewhere.

before assignment to a volunteer, and that each less-trained volunteer might have laid before him a special and well-defined problem.[1]

Without the authority which pay gives, the central agent of a separately organized volunteer movement finds it hard to hold the workers in check, keep track of their work, and make them responsible for their charges. The "one man, one boy" theory under these circumstances has still less value unless there are funds enough to permit more thorough control by a privately paid office staff, or unless (as is preferable) there is an official staff to do the work of supervision. But applied to a system where a single secretary is responsible for a vast number of workers, as in New York City, the theory involves the formation of too unwieldy a group to be handled very efficiently by so small a center of authority, however able the secretary may be or however ample

[1] The Manhattan Big Brothers Movement has for years employed a "court investigator." The work of the court investigator should be separated from the work of home investigation. The court investigator is supposed to interview each boy at court and later to investigate his home. The double work is too much for one man to do justice to, however able he is, especially if he is doing club work at the same time. Both kinds of investigation should be thorough enough to furnish adequate information to the "big brother" and point out the lines along which his efforts should be made.

the equipment and organization. It means multiplication of personalities to be understood, handled, and trained.

In New York this lack of control is shown by many cases which have been prematurely dropped, but shows also in cases where the volunteers kept up the work, but got out of touch with the central office.

A letter to a volunteer from the central office of one of these organizations assigning a boy to him is rather significant of the optional basis of the whole system, resting as it does on the initiative and decisions of the volunteers themselves:

"I would be pleased if you would make a written report to this office as to what you find, and whether you feel this is a case in which you would be interested."

A spontaneous sense of responsibility is a rare thing, and without pay or authority it is hard to inculcate a sense of responsibility. Moreover, it is harder to drop a volunteer than a paid worker if he is delinquent or unsuccessful, or to reject him if he is an undesirable applicant. What is the secretary to do when some crank "feels called" to take a boy, and insists on having one assigned? These difficulties have been keenly felt by those who supervise volunteers.

More of the directors of such movements should be chosen for their knowledge of social case work rather than for their interest alone, or their large donations. This would go far toward doing away with the reputation of sentimentalism — so different from true sentiment — which such groups are at present trying to live down, but which still crops out occasionally in their propaganda.

A further conclusion may be drawn from the difficulties encountered by any volunteer system if administered by divided authority or by an outside office without real authority.

Not only is volunteer probation to be distinguished from professional probation, but it cannot perform its proper function to the best advantage unless it is backed and supplemented by the authority, supervision, judgment, more thorough knowledge, and preliminary services of an efficient official staff of paid probation officers.

"The difficulty of controlling officers appointed by other agencies than the court and of securing uniform results must be apparent." "The chief difficulty is that a group [of volunteers] approach [the work] from many points of view and are not subject to direction by the court. Their attitude towards children is not the result of close contact

and experience with the court and with each other. A system of volunteer officers so organized that the court can control them, that they get the benefit of training and experience in court work, that they get the benefit of each other's experience, that the point of view of the whole group is largely unified, that the group represents a united intelligent force, — such a group, of which we know no example, would be an efficient factor in probation." [1]

The need of such correlation of the volunteers and paid workers was met with in glaring form in Manhattan until the appointment of the present corps of regular officers, which is still inadequate. Case after case showed the lack of such expert supervision, where the efforts of a really good volunteer went astray, or were inadequate. Especially in serious cases the authority to take more radical steps or impose conditions was needed and lacking.

If the volunteers are unorganized, and controlled by the court, as is preferable, they should not work as a parallel group, directly responsible for certain cases to the court, but should be responsible to a probation officer assigned for the purpose, and acting in the capacity of the "visitor" described

[1] Extracts from Report of the National Probation Association (Ms. unpublished, 1913).

above. Moreover, they should be allowed to do only the kind of work which is their legitimate field. All investigation and difficult probation should be handled by experts, and cases not needing expert services of this kind, should be turned over to other agencies.

Most laws provide for the appointment of additional officers unpaid by the court. In New York and Pennsylvania, however, they are without official standing. If they are to attempt the work ordinarily done by paid officers, they should certainly have regular commissions both for the sake of authority and because of the added sense of responsibility thus acquired. If they are to do simply supplementary "follow-up" work and friendly visiting, this form is quite unnecessary, though harmless.

Volunteers occasionally become experts, or even regular probation officers or professional social workers. Even if they do not continue long in the work, they may receive new conceptions of human nature or of social needs. It is frequently said that the volunteer gets more out of the experience than the child. In a sense this fact has justified the existence of volunteer probation in spite of its many abuses. An individual or group

which turns away from it dissatisfied has attained new social vision and becomes a force for more constructive work in the community.

When these voluntary associations were founded, and until very recently, they were obliged to confine themselves narrowly within the bounds of the most urgent work, viz. the attempt to make up for the lack of official probation officers. All credit to those who in such situations have jumped into the breach whether as paid or unpaid workers. They have done the only thing to be done under the circumstances. The danger comes when they do not make the necessary distinction between their proper function and that which they are temporarily fulfilling. Their policies have been shaped by the exigencies of a situation presenting to them brand new administrative problems. The experiments in other cities seemed chaotic, if they were examined at all. It is only as the work itself has differentiated that the legitimate function of volunteers has been seen to be a part of probation work distinct from the rest.

If the volunteer probation societies recognized more clearly the limitations in the work itself,

in the supervising of it, and (in certain cities) in the inadequacy of the official staff, there would be greater opportunity for them to aid in securing a more adequate regular staff, and then to fit themselves into some more comprehensive and systematic plan.

While there will always be case work for faithful volunteers, — (boys who need help can be found even where a court refuses to use volunteers), — yet it may frequently be good social economy to advocate a shifting of volunteer social energy to new fields of prevention and conservation, as has been done in Chicago [1] and elsewhere. Perhaps we shall discover in the not distant future that the efforts of probation officers and other case workers could go on forever without stopping delinquency as a whole. Such expenditure reaches the point of diminishing returns, and the community gradually shunts its funds into activities in which greater returns are secured per unit of effort in the reduction of crime — into playgrounds and schools and better houses.

In most places volunteer probation needs simply a death blow to "put it out of its misery."

[1] *E.g.* the Juvenile Protective Association.

CHAPTER VI

Coöperation

When you find a probation officer who believes in "minding his own business" and working independently of other agencies, there you have found a dead juvenile court. Until a probation office has become the focal or at least a vital part of a system of child care, it cannot be called a truly socialized agency. It may perforce work with other community agencies going through necessary legal forms, but that is not true cooperation.

A probation officer is a professional patcher-up and filler-in. Wherever community resources are inadequate, especially if the family is defective, he must supply the lack as best he may. He is a social surgeon.

But still more he is a social physician. Wherever the community is already equipped he does not need to jump into the breach. The problem is simply one of articulation of need with existing resource. Perhaps he can even show the com-

munity how that articulation could take place normally, without the needless maladjustment and consequent friction and loss and misery of a court experience.

Family breakdown usually means that the body social has broken down to that extent; probation aids nature to heal the wound, as it were, by holding it firmly and stimulating the blood until the lesion can heal, even though it be with scar tissue; or by opening up arteries to undernourished and atrophied cells. Thus we attempt to supply socially what the home has failed to supply, or cannot furnish under modern conditions.

"A large part of a probation officer's work, particularly in cases of neglect, is the focusing of all the social forces in the neighborhood upon the cases in his or her care. In the case of delinquent children, the same use of forces may be made, the child being gradually led to an appreciation of the opportunities which they present." [1]

Coöperation does not mean that every agency should be willing to do the others' work. In fact, overlapping is responsible for most of the friction

[1] Extract from Report of the National Probation Association (Ms. unpublished, 1913).

which causes coöperation to break down. It must be based on frank discussion and a clear understanding of what each can do for the other (or rather *for the child*) which the other cannot do to advantage. It is a problem of social economy.

Coöperation in the matter of investigation and use of a confidential exchange has been mentioned in a previous chapter. It is with coöperation in treatment that we are here particularly concerned.[1]

The probation officer under the present system is the representative of the court, clothed with its authority. Under these conditions his appropriate function is to direct and enforce the efforts at "emergency aid," in the cases in which the normal agencies — school, church, home — have been ineffective, and which have escaped the various rescuing agencies, but which are not too late to be saved to society without a period of segregation. He will have his hands full with exercising the necessary authority to hold in check the misdirected energies of the child; he should depend

[1] An excellent general discussion of juvenile court coöperation will be found in Mr. Bernard Flexner's article in *Preventive Treatment of Neglected Children*, H. H. Hart, ed., pp. 284 ff. See also *The Delinquent Child and the Home*, Breckenridge and Abbott, p. 173.

upon other agencies to carry out his plan for giving more wholesome outlet to these energies. In these cases coöperation should be sought by the court. Agencies should then be willing to carry out the probation officer's plan, since he is responsible for the case, and it must previously have escaped them. This is what social agencies can do for the court.

What, in turn, can the court do for the agency? In the course of its regular functioning an agency for normal children, or a philanthropic or public child-caring organization, frequently comes upon a case in which there is refusal to comply with a plan of treatment which to the agency seems necessary to the development of the normal individuality of a child. Whether that child be normal so far, or well along on the "primrose path," it needs to be constrained to certain modes of conduct if it cannot be persuaded. The agency cannot force its plan upon the individual without the sanction of the community, vested in a court.[1] The agency, or perhaps the aggrieved

[1] There is no reason why the educational functions of probation, if eventually severed from the court, should not frequently need and receive the support of the court in the same manner as other non-court child-caring agencies now do.

individual, then appeals to the court. If the agency is upheld, the court lends its sanction to the plan of the agency, and the agency carries it out with full backing from the community in that case, and no further coöperation is necessary. If the court sees fit to modify the plan in consideration of the needs or rights of the parents or child, it may direct its probation officer to carry out the modified plan, and give needed backing to the agency. This is what the court can do for the agency. Coöperation should come thus from both sides.

Unfortunately, in many communities coöperation is all one-sided. The court is battering at the doors of the agencies, or the agencies are goading the court, depending on where the aggressive and enlightened personalities happen to be located. It would be interesting but unwise here to go into the complex details of coöperation in case handling between the juvenile court and each type of agency. It will be possible only to outline the general policy or attitude of each court, and indicate roughly the place it occupies in the plexus of social agencies.

Financial aid to the court and the coöperation of commitment institutions need not be here

considered. Coöperation with police is later to be discussed,[1] and will be taken for granted in what follows. Clinical and volunteer services have also already been discussed. In what follows we are dealing with the coöperation of organizations and not with the services of individuals.

Boston affords a peculiar situation in that the system of child caring was practically complete before the special juvenile court was established. It merely had to find its niche in the ready-made scheme of coöperating agencies which created it, though its own efficiency has increased the general efficiency of the system. It has not had to take the aggressive in the matter, nor have the agencies. "The court uses every club in the bag." Cooperation is free and efficient in both directions. A graphic chart in the New York Child Welfare Exhibit showed fifty agencies in touch with the Boston court. Things form such a frictionless régime that if Boston runs any danger, it is that of complacency. Newer and bigger problems than those of case work may some day surprise and stagger her.

Buffalo: Under the new régime (1911) the court has been slow to recognize the benefits of cooperation — partly because social workers had backed Judge Nash, the former incumbent, who coöperated closely. The court has been weak

[1] Chap. X.

in enforcement of plans laid out by social workers.

The initiative in coöperation in *Rochester* comes from court or agency, depending on the case. Coöperation has increased in spite of occasional friction with the Associated Charities. Rochester, like Pittsburgh, is jealous of imported workers—a kind of provincialism which is false patriotism.

In *Yonkers*, N.Y., coöperation is fair, but there is friction with the S. P. C. C., which at one time opposed probation, and with the truant office, which the court feels has tended to send them cases too soon. The probation officer, not the judge, has taken the initiative in coöperating, being met halfway by social workers.

Manhattan in a sense can hardly be called a community; it is too multiplex to have a group consciousness. Coöperation between agencies may fail not so much from lack of intelligence or false theory as from their being completely out of touch with one another. The list of agencies is formidable enough, but it can hardly be called a system yet. One of the chief problems before the new probation force and the Criminal Courts Committee will be to articulate the available resources for child care in various districts and bring them and the court into conscious association. Much is already accomplished, but by no means all resources are yet utilized.

Brooklyn: Coöperation is reported as increasing, the initiative coming largely from the court group, with no difficulties. The Juvenile Probation Association acts as a medium.

The probation officers of *Queens* and *Richmond* boroughs have to seek what coöperation they get. Schools, women's clubs, and Manhattan hospitals coöperate.

In *Jersey City* and *Hoboken* coöperation also originates from the court — the probation officers being among the most prominent social workers in the county.

Coöperation in *Newark*, N.J., is increasingly good, both from and to the court, and most of it is due to the initiative of the probation staff.

In *Elizabeth*, N.J., the coöperation of the schools has been secured by the probation officers. Otherwise all the coöperation there has been received by the court reluctantly, but increasingly.

Mr. Edmonds of *Trenton*, N.J., has secured the coöperation of every agency needful to his work.

Coöperation broke down in *Philadelphia*, so far as the juvenile court under the recent régime was concerned. Its policy was obstructive, inconsistent, and inefficient. There was a deliberate policy of "hands off our business and we won't bother yours." Petitions to the court emphasize this point.[1] The probation office has been obliged, of course, to call upon the agencies occasionally, but has not committed itself to any common plan. Matters may be improved under the new system.[2] The agency should, however, make it a little clearer that they have no

[1] A few of the social workers have not improved matters by their antagonistic way of beating at the gates of the court.

[2] The new Municipal Courts Act, 1913, taking effect January, 1914.

desire to "capture" the court, as other groups in Philadelphia and elsewhere have attempted to do. Coöperation with the compulsory educational department is satisfactory. In general, however, the outside agencies give more than they receive.

Under Miss Lucy Friday's leadership the *Baltimore* court worked much more smoothly with other organizations.[1] Coöperation now comes mostly from the outside in. One or two officers, as in Pittsburgh, are more aggressive. The court does not refuse its coöperation, though it occasionally fails to accept the recommendations of social agencies in critical cases.[2]

Under the previous incumbent one of the chief counts of inefficiency charged against the *Washington* court in the course of the Federal investigation of its methods (1912) was failure to cooperate properly with social agencies qualified to aid the court. Its policy was inconsistent and arbitrary. Many social workers were treated as persecutors of the family; the advice of more experienced workers was not sought or their evidence was ignored. Coöperation was largely forced on the court, and friction gradually increased. The court referred few cases to social workers. Coöperation with Catholic agencies is said to have been excellent. The court was at

[1] Cf. *Charities*, XIII (1905), p. 358; Proceedings of the Maryland Conference of Charities and Correction, 1909, p. 187 (paper by Mr. Levin of the Federated Jewish Charities, Baltimore).

[2] Judge Williams is apparently afraid to break up families, either for sentimental reasons or because of possible *habeas corpus* proceedings.

outs with several institutions for the care of children. Judge Latimer, the recent appointee, still has an interesting problem in welding the Children's Council group (social workers), the Mothers' Congress group, and the Catholic and sectarian interests into a coöperating whole.

Pittsburgh is famous for the dead-locked condition of its social agencies in the matter of coöperation. Matters might be improved if the essential oneness of the whole child problem were grasped. They are all working in the same field, not, as they seem to think, in isolated inclosures which should be carefully fenced. We do not use a plow in one acre, a harrow in another, plant in a third, weed in a fourth, and expect to reap in a sixth plot! Yet agencies which fail to render different services simultaneously to the same children do just that thing, or else fail properly to perform for the children work which they should depend for upon another agency better equipped to the task. This idea cannot be made effective, however, until there is some relaxation of personalities in the situation, or the introduction of a new element of forbearance and concession and due allowance, in place of individualism, suspicion, and self-defense. The task of rescue work is titanic enough in any city to make workers forget pettiness as they would in a battle; but social workers are human, after all. Coöperation has been urged upon the court by outside agencies, and the educational process is gradually making an impression. Policies of coöperation are left to individual officers. One or two officers are especially willing in this

respect, one or two just the opposite. The court does not wish the agents of societies in court, perhaps fearing domination by them.

For a while the *Columbus* court tried to do things itself instead of coöperating. Friction and failure were the result. Coöperation has increased under the administration of Miss Virginia Murray, and the agencies have met the court halfway, with no refusals. The court's policy is not, however, well defined and consistent. Through the Central Council, as a forum, coöperation is likely to develop wholesomely. Formerly, Columbus, like Pittsburgh, Cincinnati, and Louisville, was in the stage where any suggestions as to change in method could not be conceived as anything but personal antagonism or political attack. Jewish coöperation is excellent, as is nearly everywhere the case.

In *Cincinnati* the court is perhaps too willing to turn over cases entirely to other agencies when they have asked aid. This is a good policy theoretically, but it should be adjusted carefully, depending on the case, the case plan, and the efficiency of the agency. Otherwise it is not coöperation but shirking. Failure in coöperation on cases *referred to* the court was one of the criticisms made of the court in the recent attacks. The court does not refer out many cases of its own initiative. Under a former administration the probation office built up a splendid scheme of coöperation, with the court as focus. What was left was the result of inertia, until stimulated again by criticism.[1]

[1] Cf. Report of Bureau of Municipal Research on the Cincinnati Juvenile Court, 1912; also see court's report, 1912.

COÖPERATION

In the past few years coöperation in the *Louisville* court[1] has decreased and has been secured largely by outside agencies, by the use of forbearance and tact. Catholic and Jewish coöperation is in good working order. Cases are referred to them and occasionally to settlements.

Indianapolis: Except for some drifting apart of the Children's Aid Association and the court, coöperation has remained fairly even. The probation office, being scantily manned, looks upon itself as a clearing house, and must depend much upon other agencies.

In *St. Louis* not only has excellent coöperation been secured with every type of agency, but a larger system of coöperation through a Central Council of Social Agencies is partly the outgrowth of the efforts of a former chief probation officer, Mr. Roger Baldwin. The policy of the court has been clean-cut and continuous,[2] along the line already advocated, of differentiating clearly between the work of a probation officer and that of other agencies. The only friction (now smoothed over) between the court and the attendance department (as to truants), and the court and the new Board of Children's Guardians (as to depend-

[1] The 1909 report, partly by Mr. Flexner, contains an excellent discussion of coöperation. The court "cannot and should not give material relief nor the many kinds of assistance for which special organizations have been created. The court simply acts as a clearing house for the proper disposition of cases requiring special aid and helps its ward through the Probation Department."

[2] Report, 1909, p. 21; Letter to Hotchkiss Committee, Chicago, 1911; Ms. Report, 1913.

ents) has been on this very issue. Long-range expediency has so far won out over short-range expediency. Such a system adds to the efficiency of the court and stimulates that of the voluntary "agencies."

In *Chicago* a multitude of agencies and a progressive court have together created an elaborate system of coöperation. The need of central registration of families in a confidential exchange has been keenly felt. Professor Thurston of the New York School of Philanthropy, formerly chief probation officer, in a study of probation results in Chicago made by him, found those officers uniformly most successful who most utilized other agencies. The Hotchkiss report makes an admirable appeal for closer coöperation and a still higher call for the union of all children's agencies in a campaign of eradication (p. 57). The Chicago Domestic Relations and Morals Courts are following in the footsteps of the juvenile court in developing similar systems of coöperation.

The *Milwaukee* court is not over-coöperative and is overworked partly for that reason. The city as a whole is well organized in this respect. The Children's Betterment League is not in as close touch nor so active as formerly, its activities being taken over by the new Central Council of Philanthropies.

The *Minneapolis* court, especially the Research Department, has secured splendid coöperation from every agency necessary to the completion of probation work without duplication of effort, and serves the agencies willingly.

Coöperation in *St. Paul* has been good from the start and has increased through the court's initiative.[1]

Des Moines: A fairly complete system has been worked out.

At first the court failed to get the coöperation of other agencies in *Grand Rapids*. Gradually a better understanding has developed, much of it due to the court's own efforts. Cases are referred both to and from the court. The Charity Organization Society depends on the court to back up its family plans.[2]

The *Detroit* Society for the Prevention of Cruelty to Children has been doing much of what is practically probation work on its cases. It hopes[3] to "relinquish it entirely before the wave of official probation now urging forward." It would be better to say "wave of public social work"; for their work might well be taken over by the city, but what a shame to have it revert from an efficient voluntary agency to a compulsory agency with a stigma inevitably attached!

Toledo has no very elaborate system of co-operation. Women's clubs, churches, and the Federated Charities, especially the Jewish, help with cases. The strength of the Catholics in the court makes coöperation with the Catholic agencies easy. The Humane Society, the Visiting Nurses, and the Newsboys' Association also aid the probation office.

[1] Reports, 1909, p. 8; 1911, p. 4.

[2] See Reports, 1911, 1912.

[3] Report, 1912.

The generally coöperative spirit of *Cleveland* is reflected in its juvenile court.

Commissioner Starr of *Toronto* is developing coöperation well in that rather young court.[1] Coöperation for physical care is especially good.

Winnipeg has a good system of coöperation with all needful agencies.

Under the leadership of Dr. Merrill, the *Seattle* court holds a leading place in the coöperative scheme of child caring. The Health Department, the Medical Inspector, and the Gatzert Foundation for Child Welfare are especially allied with the court's "Department of Research," as the clinic is called. The whole basis of public opinion has grown less sentimental and more substantial as a result.

The *Portland* court acknowledges aid from the Charitable Organizations and other social agencies, especially the Boys' and Girls' Aid Society, the latter having been especially helpful in placing-out work. The court does not actively initiate coöperation, nor go out of its way to help other agencies.

San Francisco leaves its coöperation policy to its probation officers.[2] No full description is at hand.

Mr. Ruess, of *Oakland*, Cal., has made a specialty of coöperation, a large part of his energy going to the enlisting and correlating of efforts in behalf of children, individually and collectively, especially through the Child Welfare League,

[1] See Report, 1912. [2] Report, 1911.

which is even extending its field of action beyond Alameda County.

Los Angeles acknowledges the aid of schools, truant officers, churches, and the Humane Society.[1]

Salt Lake City has good coöperation with the schools.[2] The probation office tends to do too many things for itself, instead of getting them done by more appropriate agencies.

The coöperative system of *Denver* has been excellently worked out, and is considered by that court one of its distinctive features. So far as case work goes, it is said to coöperate well even with the subordinate agents of the Humane Society[3] which has so violently attacked it.[4] Judge Lindsey says, in *The Beast* (p. 135), "Our work was to aid the civilizing forces — the home, the school, and the churches." This conception, of urging toward the normal, is the essential germ of coöperation.

Kansas City[5] lists twenty-one (21) coöperating agencies, covering every field.

A point which would make an interesting study in itself, but which my investigation has not covered thoroughly, is the coördination (or chaos as the case may be) existing between the juvenile courts and the adult courts and probation officers,

[1] Manual, 1912.

[2] Report of the Utah Juvenile Court Commission, 1909–1910.

[3] Report on the Juvenile Court of Denver, 1913, p. 9.

[4] Articles by E. H. Whitehead in *Child and Animal Protection*, Denver.

[5] Report, 1911.

at their points of contact. As the so-called higher courts are increasingly socialized this articulation between them will become one of the interesting tasks before the jurist and administrator in this field.

The details of coöperation must, of course, depend upon local exigencies. But a study of it in the large shows that if the juvenile court, like any other children's agency, is to succeed in its work, it must link itself with a series of coöperating agencies furnishing and safeguarding each of the specific needs of the child, — health, employment, recreation, education, — and socially backing up the home.

Coöperation of the kind described in this chapter should be clearly distinguished from participation in social reforms or legislative work. The difference is analogous to that between the Charity Organization ideal, of personal service to individuals, and the broader programs of social action.

In a later chapter we shall see how even a complete system of coöperation is but a step toward greater things.

CHAPTER VII

Dependency Jurisdiction of the Juvenile Court

The most interesting because the most general and extensively used special jurisdiction of the juvenile courts is that of dependency. In fact one question we shall have to consider under this head is whether dependency is really a special jurisdiction of the court, like child labor and truancy. The early precedents upon which the chancery juvenile courts rest are based upon property rather than morals, yet now the juvenile courts' work in this very field of material support is being seriously questioned.

Since placed-out children are largely dependents, the justification of placing-out through the court also rests partly upon the answer to this question. Under the same head falls also the mooted question of widows' pensions, which, since it involves adjudication of the adult's condition rather than that of the child, will be considered briefly in the next chapter.

A great many delinquent and neglected children are also dependent.[1] In some jurisdictions the law's definition of "dependency" includes much which is really neglect or delinquency. Cases of this character are not cases of "pure dependency," and no question has been raised as to their inclusion in the juvenile court's jurisdiction.

Professor H. W. Thurston, formerly chief probation officer of Chicago, discussing the question of dependency jurisdiction, makes a distinction between "dependency plus delinquency," "dependency plus neglect," and "pure dependency"; the first two kinds of dependency may rightly be handled by the juvenile court, the last, not. The writer agrees with this opinion, but objects to the way it is put. Placing dependency first in these phrases obscures the issue. In so-called cases of dependency "plus delinquency or neglect," it is really not the fact of dependency that is or should be adjudicated. It is the delinquency or the neglect. The dependency is an extremely important element in the child's background, which will take a prominent place in the investigation and evidence, and will seriously influence treatment. It should not, however, be the fact of

[1] In fact the title of the petition is often somewhat arbitrary.

poverty which is passed upon by the court, any more than the facts of neighborhood, housing, nationality, or school record.

Under present economic arrangements there is nothing about the mere fact of poverty to indicate parental delinquency or unfitness.[1] In cases of poverty there are no disputed rights unless some one tries to take away the children, or unless the family refuses aid for them. What need, then, of a trial? Taking a child out of a home for poverty is bad social economy, provided the home is otherwise good. In such cases, parents should be upheld in their rights by the refusal of juvenile courts, through their probation officers, to take jurisdiction in such cases; or, if the law obliges the court so to do, the court should at the time of the trial, back the parents up in their wish to keep the child; and in either case it should refer the family to proper sources for relief, before taking drastic action. If at this stage the family refuses relief or rehabilitation, the refusal may constitute true neglect; but it is this failure, rather than poverty in itself, which then becomes cause for court action.

The report of the National Probation Associa-

[1] Cf. Devine, *Misery and Its Causes*, Chaps. II, III.

tion, and the independent opinions of Mr. Bernard Flexner of Louisville, Mr. Homer Folks of New York, Judge Baker of Boston, and Judge Mack, formerly of Chicago, agree in general with the point of view expressed above.[1] In the face of all these opinions, how little is being done in most places to reduce or abolish the dependency work of the juvenile court!

In *St. Louis* for several years "destitution unaccompanied by parental neglect" has been turned over to relief agencies.[2] Finally, and largely through the efforts of the probation office, the St. Louis Board of Children's Guardians, an administrative agency, was established (1912) to handle, among other matters, dependent children.[3] Until the above law was passed, the court also had jurisdiction of appeals from the truancy department for exemptions under the poverty clause of the child labor law.[4] This falls in a somewhat

[1] Differing views are given by Miss Lathrop, of the Federal Children's Bureau, in Mangold's *Child Problems* (p. 244), and by Hon. Harvey B. Hurd, *Charities*, XIII (1905), pp. 327–328.

[2] Report, 1913; in 1908–1909, 51% of neglect cases were for destitution, and in 1911–1912, 26%.

[3] See following chapter (widows' pensions), and preceding chapter on placing-out.

[4] Reports of the St. Louis Board of Education, 1907, p. 323; 1908, p. 255; 1911, p. 279.

different category, since it involves a question of disputed rights. Yet even here the expert relief agency, public or private, should be and has been often used as an intermediary, and in most cases could settle the case without need of the court's adjudication.

The St. Louis probation office is one of few in this country to take a positive attitude in this matter as in other points of court policy. Its theory has, moreover, gradually become successful practice, more so than in most courts.[1]

[1] For example, in deciding the question as to whether the newly established Board of Children's Guardians should await an adjudication of the court before relieving dependent children, the practical consideration of divided responsibility — which would have been unfair to both court and board — and the legal question as to whether a child not already "dependent on public support" could be touched by the court, both entered. The reasons advanced on the other side were those of temporary expediency (the board being overburdened with the reorganization of the St. Louis Industrial School), inadequate staff, and fear of partisan domination. After discussion by the Central Council of Social Agencies, which favored the court's point of view, the matter was decided by a test case (*In Re Jackman*) in which the opinion of Judge W. M. Kinsey read as follows:

"It is charged in the complaint filed in this case that May and Gertrude Jackman are neglected children, in that they are dependent on the public for support, and it is the object of this proceeding to have the court adjudge them neglected for that reason. While it does not appear so on the face of the record, all parties interested tacitly admit that this is a test case, brought for the purpose of defining the limits, if any, upon the jurisdiction of the Court to adjudge

The courts of *Maryland*, *New York*, *New Jersey*, and *Massachusetts*, working under quasi-criminal

children neglected, on the ground of dependency, not for the primary purpose of thereafter dealing with them as such, but for the purpose of enabling the Board of Children's Guardians, without other adjudication, to extend to them the relief authorized by the ordinance under which said Board was created.

"The petition was filed by Mr. Eugene B. Gregory, who is not related to the children, but who has some connection with the St. Vincent de Paul Society, a charitable society which has theretofore been extending aid to the mother for their support. The mother appears in court in person, and has brought these children before it.

"The facts in this case are undisputed, and quite simple — Mary Jackman, the mother, is twenty-eight years of age, and is in fairly good health. She cannot be said to be very robust, but is able to perform her ordinary household duties, and in addition thereto does washing and ironing for customers who pay her for this service. . . . The mother, Mary Jackman, has some relatives in the state of New Jersey, and perhaps elsewhere, who are also poor, and not able, or at least do not assist her in supporting her children. Since the death of her husband, Mary Jackman has occupied three rooms with her children in a respectable part of the city. . . . She earns on an average of $1.50 per week by taking in washing and ironing, and for some time past has been receiving assistance from the St. Vincent de Paul Society, amounting to $2.00 per week for the support of her children. . . . The Society is engaged in dispensing public charity. The children of Mrs. Jackman are kept clean and neatly dressed, they are in good health, their environment is good in every respect, and their mother, in personal character, and maternal attention to her children is not only above reproach, but good in every respect.

"There is no fact or facts upon which these children can be adjudged neglected, or dependent, unless it be that the mother is now receiving aid from a charitable institution for their partial support, and that while pursuing her present manner of life, she is unable to support them without such assistance. . . .

powers, do not handle dependency in the narrow sense. In the Boston court, relief agencies are utilized in cases needing such treatment.

"There is no suggestion that the Court take charge of these children as is done in ordinary cases of neglect, either by putting them into custody and care of some public or private institution, or by leaving them in the care and custody of their mother, *under the supervision of a probation officer.* There is nothing in this case that warrants the Court in pursuing either course. The question then arises, whether on this state of facts the Court is warranted in adjudging these children to be neglected, under the law establishing this Juvenile Court and prescribing its powers and duties. The power and duty of this Court is derived from the law creating it. The duty of the State to control and care for delinquent, neglected or dependent children arises out of modern economic and social conditions, and is the subject of recent legislation.

"In arriving at the intent of the Legislature in establishing Juvenile Courts, and making provision for delinquent, neglected, and dependent children, it is necessary to review the policy of the state as expressed in all legislative acts relating to that subject. Because the subject is new, we find frequent changes in the law and lack of uniformity.

"For the purposes of this case, we need not search further back than to the acts of the 46th General Assembly, which convened in January, 1911. That Assembly passed four acts which must be taken into account in this case, one approved April 7, 1911, which appears on page 120 et seq. of the Session Acts of 1911, another approved April 11, 1911, which appears on page 177 et seq. of said Acts, and which is the law now governing this Court, and Act approved April 3, 1911, appearing on page 312 of said Acts, repealing an Act relating to the St. Louis House of Refuge, approved Feb. 24, 1873, and an Act also approved April 3, 1911, which is the Enabling Act authorizing cities of five hundred thousand inhabitants or more to create by ordinance a Board of Children's Guardians, etc.

"It is under this last Act that the Board of Children's Guardians

The *Springfield*, Mass., court forces neglect cases back on private agencies.

of the City of St. Louis was established by ordinance, and its powers and duties defined.

"Turning now to the first Act referred to, it will be seen (Sec. 1, page 121) that in counties containing two hundred and fifty thousand inhabitants, and less than five hundred thousand inhabitants, in which a Juvenile Court is held, the County Court of such county is required to set aside a fund not exceeding in any one year $12,000 for the partial support of women whose husbands are dead or whose husbands are prisoners, when such women are poor, and are mothers of children under the age of fourteen. Section two of the Act limits the amount which can be paid per month, and also limits such payments to the support of children under a given age. Section three of the Act provides that the Juvenile Court sitting in such county shall make the allowances provided for by the Act, and by implication confers power on the Court to decide who is entitled to the benefits of the Act.

"Turning now to the Act approved April 11, 1911 (page 178 et seq.) which defines the jurisdiction, powers, and duties of this Court, it will be seen at a glance that this Court has no power to make allowances for the partial support of women whose husbands are dead, and who have children, as may be done in counties of two hundred and fifty thousands, and less than five hundred thousand inhabitants. Looking now to the ordinance passed in pursuance of the Enabling Act approved April 3, 1911 (page 349) it will be seen that the Board of Children's Guardians (Section 8) is not only given power and authority to receive and take charge of children committed to it by a Court of competent jurisdiction, but also upon application of their legal custodian, to receive and take charge of dependent or defective children. It is also provided by this ordinance that said Board may expend public money for the care and support of children who have either been committed to it by a Court, or who have been taken charge of by the Board, upon application of the legal custodian of such dependent or defective children.

Connecticut has recently included a provision for the supervision of dependents in her probation law.

"It will thus be seen that the Board of Children's Guardians is authorized to substantially do what a Juvenile Court may do in a county having two hundred and fifty thousand and less than five hundred thousand inhabitants, for the support of children in its charge.

"It will be noticed that Section three of the Enabling Act grants a broader authority than that conferred by the ordinance. The Act authorizes the Board to receive and take charge of any dependent or defective child who is a public charge upon the city, without any reference to consent by its legal custodians, while the ordinance requires such consent, unless the child was committed by order of Court. But both the Act and the ordinance recognize two sources from which the Board may take legal custody, viz., one by order of Court, the other upon its own initiative. The words in the Act 'Who is a public charge upon the city' and the words 'Dependent upon the public for support' must be construed to mean the same thing, because the Ordinance cannot be broader than the Act.

"Turning again to the Act approved April 11, 1911, governing this Court, it will be seen that by Section one of the Act what shall constitute a delinquent or neglected child is clearly defined. Under the definition of what constitutes a neglected child, the only language used which can in the remotest degree throw any light on this case, are the words 'Are dependent upon the public for support.' If this language were the only guide by which the Court can determine whether or not the Jackman children are neglected, within the meaning of the law governing this Court, the question would be left in some doubt; but turning to Section five of the Act, we see that when a child is found to be neglected the Court may make an order committing the child to the care of some reputable person of good moral character, or to the care of some association willing to receive it or any institution incorporated under the laws of this state that may care for children, or the Court may return the child to the parent or

Children's courts in *New York State* handle many dependent children, especially young children, under the caption of "improper guardianship." [1]

The *Pennsylvania* and *Washington*, D.C., courts are also quasi-criminal, and, like those of New York, they present the curious phenomenon of handling cases of destitution on this basis. Where the point of view of the court is unprogressive, as in *Pittsburgh*, this system is especially unfortunate.

In *Washington*, many cases which were really contributory delinquency or neglect were committed to the Board of Children's Guardians by the court on dependency charges, for short terms,

guardian, *under the supervision of a probation officer*. It seems, therefore, that dependency upon the public for support which will constitute neglect means more than mere inability of the parent to support the child, but implies some omission of duty or fault, which warrants the Court in keeping the child under supervision when returned to the parent.

"Keeping in view the tenor of all of the legislation upon this subject, including the ordinance creating the Board of Children's Guardians, it seems clear that the Legislature by the Act creating this Court, and defining its powers and duties, did not intend that this Court should declare a child neglected because its parent is not able to fully support it, there being no fault or omission of duty on the part of such parent; nor did the Legislature intend to give this Court the power to adjudge dependency as a basis for support of children out of public funds.

"It follows, therefore, that the petition in this case must be dismissed, and it is so ordered."

[1] Judge Deuel's proposed Children's Code (N.Y.) takes a step backward, from the point of view of this book, in including (Sec. 10) the power of handling "dependency" by permission of the Commissioner of Charities.

where close supervision of the home while keeping it intact, or else thoroughgoing indeterminate commitment, would have been more successful. Still other temporary commitments of "pure dependents" have been made which "would be done away with entirely if adequate provision were made in both private and public funds for proper care of these children." If it were put up to the charitable agencies to solve all these cases they would be driven to find means to do it.[1]

The *Cleveland* court has good coöperation with the relief societies, in securing care for destitute families or even, until the pension law passed, in securing "pensions" for them.

There was for a time in *Cincinnati*, a tendency to commit children unnecessarily for mere poverty. In 1911, 48% of a total of 365 committed cases are said to have been in this class.[2] In the recent reorganization of the Cincinnati House of Refuge, a vast congregate institution, the juvenile court has coöperated intelligently in transferring dependent children, according to legal forms, from the Refuge to placing-out agencies and to the Colored Orphan Asylum.

The 1907 report of the *Chicago* Juvenile Court (p. 99) contains a warning about the overloading of the court with dependency work, which is al-

[1] Report of Miss Swain on the Board of Children's Guardians to the Children's Council, Washington, D.C., 1912; Ms. unpublished. The court's jurisdiction and practice in the matter of child labor law exemption permits has already been discussed in Chap. II.

[2] Report of the Bureau of Municipal Research on the Cincinnati Juvenile Court, 1912, p. 13.

most prophetic of the attack upon it in 1911. The dependency jurisdiction led very naturally to the establishment of the widows' pension plan.

In *Denver* some "dependents" (really neglect cases) are turned over to the Humane Society's officers, who coöperate with the court.[1] At one time[2] the court administered a "department for the relief of needy children."

Other chancery courts have for the most part taken their powers for granted in the matter of dependency jurisdiction, and have committed to public or private institutions or placing agencies as many dependents as delinquents, or more.

The *California* law uses "dependency" to cover neglect, vagrancy, truancy, and incorrigibility, as well as destitution. Many "dependent" children are therefore more abnormal than the "delinquent" who violates an ordinance. Little, therefore, can be deduced from their reports as to treatment of cases of simple poverty. "Dependent" children can only be committed for six months, but can be recommitted after investigation showing family conditions unchanged. This is a wise precaution, but involves unnecessarily cumbrous procedure. The institutions themselves, or a placing agency, should be able to do the periodic visiting of the homes. The widows' pension plan has somewhat superseded commitments of children for pure dependency.

[1] Report on the Denver Juvenile Court, Jan., 1913, p. 9.

[2] Judge Lindsey, article in *Charities*, XIII (1905), p. 356.

DEPENDENCY JURISDICTION

While dependency as such should not be handled by the juvenile courts, yet where it is handled, the relative proportion of delinquency, neglect, and dependency from year to year is sometimes an interesting index of the work of the court or the tendencies in the community.[1] If dependency and neglect cases are increasing relatively to delinquency cases, but not absolutely except in proportion to increase in the general population, we may assume that the court is "catching children younger" or at less abnormal stages, or perhaps that public sentiment is placing accountability for delinquency more nearly at its source.

The testimony of many probation officers is that dependents differ little as a type group from delinquents, as to character, except in extreme cases.[2] Should research confirm this, the effect on juvenile court theory would be very far-reaching. It might be an argument, not for the inclusion of dependents in juvenile court jurisdiction, but for the possible treatment of quasi-delinquent children by administrative agencies.

[1] For example, St. Paul, Minn., Reports, 1909–1912; Des Moines, Ia., Reports, 1907–1912; Portland, Ore., Reports, 1908–1911.

[2] Cf. C. R. Henderson, *Charities*, XIII (1905), p. 342.

To return to the suggestion with which this chapter began: The original juvenile jurisdiction in chancery courts was in matters of material welfare. Why, then, question the court's right to retain such jurisdiction? In fact, might not the legal basis of the court be endangered by thus weaning it from its origins?

On the latter point the writer cannot pass. Only it would seem that if we are constitutionally treating children wrongly, the constitution may have to suffer.

On the other point, we should not measure the present by the past, but the past by the present. If we find in the present that the handling of plain poverty without dispute of rights might better be done by other agencies than by the courts, we can only judge that, from the social point of view, a mistake was made in the very beginning. Was it not an administrative task the chancery court undertook when it made a child its own ward, and administered its estate, instead of simply adjudicating its custody in disputed cases and turning over the executive functions to others? And is this not exactly what we find as the essential difficulty in many existing juvenile courts?

Now, in the days when these precedents were

developing, the function of adjudication was not clearly differentiated from that of administration. Many courts did some of both. Many courts (*e.g.* county courts, fiscal courts) still act as administrative bodies. There is no reason for differentiating institutions prematurely But it is unfortunate that the fusion of functions in this case was maintained and carried over into the juvenile court.

None of the earlier children's courts or laws for separate trial (Connecticut, Massachusetts, Australia, Ontario) attempted to handle dependents as such. This was first introduced, at least as the model for most general imitation, in the Illinois Law of 1899.[1] We must hold this law accountable for the grip which dependency work has on the juvenile courts.

From a legal point of view the chancery precedents have been and will be of tremendous value in establishing the spirit and status of the courts for

[1] It is significant in this connection that it is in Illinois that the juvenile court has first been attacked for the compulsory breaking of homes otherwise normal by the removal of children on account of poverty. No one ever objected to a volunteer agency's removing children by common consent, if relief was not available. It is in Chicago, too, that widows' pensions have developed most conspicuously in connection with the juvenile court.

child welfare. But that the maintenance of the chancery procedure (the essential idea of which is, after all, simply equity, welfare, balancing of interests) depends on retaining dependency jurisdiction, does not seem conclusive to a non-lawyer. If it were so decided, it would be time for some new laws and some new precedents.

CHAPTER VIII

Placing-out by Juvenile Courts

Nearly every juvenile court law has given the court power to place the delinquent, neglected, or dependent child in a "suitable home" — in some cases by adoption, in other cases the child remaining a ward of the court with or without supervision. Following the distinction made in previous chapters, where is the line here between adjudication and administration?

The court should have power to order such treatment as seems best for a given child, with or without the recommendation of some agency. Suppose the best plan for a given child seems to be its placement in a family. The court orders it. *Treatment begins from that point.*

If the choice of the family and the supervision of the child in its custody are placed by the law under the court, such work falls in a class with the administration by the court of child labor permits and truancy probation. The latter two could well be transferred, as we have seen, to the school

system; similarly the placing-out of children is already performed usually by organizations or public agencies for that special purpose, and the juvenile court should consider such work on its own part a temporary adjunct of its regular work.

If, on the other hand, the law does not explicitly provide for supervision of home-finding by the probation office, such work by the court is like its administration of clinics, employment bureaus, and clubs. It is a gratuitous excrescence, only justifiable for the time being when there is no way of securing the same result, by coöperation, through administrative agencies.

Let us assume, for the moment, however, that the present fashion is permanent. In view of recent criticisms of the placing-out work of some juvenile courts, it would be well if every such law contained explicitly such safeguards as are said to be the practice of the Kansas City [1] or Chicago courts, or of the new placing-agents in the Pittsburgh court. In general, the extent of this work varies, as it should, inversely with the facilities for home-finding furnished by private organizations; but if it must be done by the court, the staff and the standards, as in the case of the

[1] Report, 1911, pp. 20 ff.

administration of the child-labor law, should not be inferior to those of the best administrative agencies for the same purpose.

So much is available on the subject of standards of home-finding that nothing further need be said about them here. It remains only to mention the cities where such work has developed extensively or peculiarly in direct connection with the court. It may be assumed that courts for the most part use regularly constituted placing agencies.

Baltimore: Some placing is done extra-legally, by consent of parents or in the form of employment.

Pittsburgh: The existing home-finding societies have inadequate standards. They have refused to take juvenile court children. As a result the court under the powers granted it has taken up placing-out work — about 300 cases altogether.

For a few years various probation officers secured homes in the city willing to take children. No supervision was exercised, nor were high standards demanded. Several children might be sent to the same home, even of both sexes, though the latter were usually either young, or brother and sister. Indeed the county's weekly allowance per child is so small ($2.59) [1] for city living that some of the guardians, who depended on the allowances for their own living, could not save

[1] P. S. 543, Act of June 1, 1911.

a margin without taking several children. Conditions in some of these semi-institutions were almost scandalous.

Recently a trained placing-agent, nominally a probation officer, with a privately paid assistant, has been attached to the court. She has reorganized this phase of the court's work in accordance with the best standard of placing-out agencies. At present the court group would still be willing to turn over the work to a properly equipped outside agency, were such organized. Perhaps the court's new department may itself be split off eventually as a separate agency; on the other hand, there is danger of the present situation's crystallizing.

The present law requires a fresh commitment to the home every time a child is replaced, in order that the payments may continue. The child should be committed to the placing officer, to avoid this awkward practice.

Columbus: Some children are placed out with inadequate standards.[1]

Indianapolis: Only a part of the children placed in families through the court are placed directly by the court. The paid officers, not volunteers, investigate and follow up these cases (25 cases in March, 1913). The remainder are placed by the State Board of Charities or by the State Schools. The court lacks equipment for such work, but instead of asking for more help for the purpose, it might leave the task frankly to the existing agencies.

[1] Ms. Report, 1912, Table D: 77 cases.

St. Louis: The probation office has been largely responsible for the establishment of the St. Louis Board of Children's Guardians, one of whose duties under the law is the placement of neglected and dependent children.[1]

Chicago: For a while[2] placing-out was done on a semi-voluntary or out-of-court basis, by a bureau organized by the court and the Juvenile Court Committee. This was discontinued for lack of funds. At present, however, one of the regular departments in the reorganized probation office is in charge of a placing agent. The standards are good — exceptionally so, no doubt, owing to the concentration of criticism upon this phase of the court's work in 1911–1912.

Milwaukee: The court does not do placing-out, except of course through societies. The Milwaukee truancy department has placed 800 children in five years. Unfortunately its standards of home-finding are low. But that the school system should take up such work, even extra-legally, is an interesting development.

All the *Canadian* courts exercise the power given them under the act to commit the children to the Children's Aid Societies of both religions, which place children out under court supervision.[3]

[1] See discussion of this matter in the chapter on Dependency Jurisdiction.

[2] See Reports, 1907, 1908.

[3] Toronto, Report, 1912, p. 6; Winnipeg, Report, 1911, p. 18. Under the old Children's Court in Toronto children were "bound out" to homes without conviction.

Grand Rapids: Placing-out is done through the county agent, who is under the Michigan law[1] the investigating officer of the court. The standards of work are very fair, though not up to the best.

Toledo: Girls on probation are placed out at service almost indiscriminately, — 300 of them altogether.[2]

Cleveland: Placing-out is still done directly through the probation office, but on a smaller scale than formerly.

Omaha: 78 cases were placed out by the court in 1912.[3]

Des Moines: From 15 to 35 cases a year[4] are placed out.

St. Paul: Placing-out is done through the detention home on a small scale.

Kansas City: There is a fully organized Home-finding Department in the court.[5] Seventy-four children were placed in 1911, largely cases of dependency and neglect. The forms used show good standards of work.

Denver: "Some dependents are adopted directly from the court into homes. These cases are accounted as special cases, generally having many elements of fact different from the ordinary case of a dependent child. The average of such cases

[1] Public Acts, 1907, No. 6, Secs. 4, 7. 90 Cases in 1912 (Report, 1912, p. 43).

[2] Reports, 1910, 1911.

[3] Ms. Report, 1912.

[4] Reports, 1907–1913.

[5] Report, 1911, pp. 20 ff.

will run from 25 to 50 per year. The adoptions are generally made through the application of families who, as a rule, know the child, very often bearing some blood relation to the child. There is a special statute covering this matter of special adoption, and it is indeed a proceeding aside from and different from the ordinary proceeding in dependency. No such adoption is made without a public examination of the parties petitioning for the adoption in open court by the Judge and such investigation by officers as may seem to be necessary. In cases of this kind it has never been considered necessary to visit afterward or inspect the homes.[1]"

Salt Lake City: There being no society there for the purpose, the Salt Lake City probation office places out a number of cases each year.

Los Angeles: Placing-out must be according to the child's religion. This provision crops out wherever religious divisions are strong; presumably it helps to prevent friction. The court runs a daily advertisement in the papers and, after investigation, places children directly as well as through duly qualified societies.[2]

The *Manhattan* volunteer probation societies do some placing; the Big Brothers Movement reported 74 boys "removed from bad environment" in 1911, and placed in homes after investigation. This is but a drop in the bucket, of course. There are other agencies in New York fully equipped for such work.

[1] Extract from Letter to the Hotchkiss Committee, 1911.

[2] Manual, 1912, pp. 107, 247, etc.; 147 children in two years.

In the recent attacks on the juvenile court of Chicago there figured prominently the lack of control exercised by the court over placing-out and placing-out institutions. The Hotchkiss Report (p. 24) advocates the centralization of control in the juvenile court. This seems to me inconsistent with the theory of court functions being worked out in this book, and perhaps inconsistent with Professor Hotchkiss' own opinions.[1]

The court should have power to determine whether a child should be placed out. So long as the child is subject to compulsory treatment, it should remain a ward of the court. The court is then ultimately responsible, and should be able to demand reports regularly, for its records, from agencies or homes having custody of its wards. But this does not mean a centralization of administration. Once the court has sanctioned a plan, it should be left to the administrative authority to carry it out; so it is with the truant officer, so it should be with probation officers, with institutions, and with private homes. The court need interfere only when it appears that the plan decided on is not being successfully carried out.

[1] See Proceedings of the National Conference of Charities and Correction, 1912.

Unless, however, there is some appeal by aggrieved parties to the court, it should be for the administrative authority to initiate any demand for a change of plan — release, parole, or change of custody. Provided all parties are agreed, the court need have only a record of this action, provided the previous order of the court was sufficiently broad in its scope. If there is again a dispute, the court should hold a rehearing and establish the plan afresh.

CHAPTER IX

The Diagnosing Clinic

The "preliminary investigation" of juvenile cases ordinarily deals chiefly with social facts. A part of the juvenile court work which has in most places grown up separately,[1] but which is essentially identical in nature with the "preliminary investigation," and should form a part of it, is the diagnosing and prognosing clinic.[2]

As soon as a clinic goes beyond the stage of investigation and recommendation, it becomes *treatment*, analogous to probation or commitment. But in so far as it secures facts upon which to base

[1] Seattle is somewhat exceptional in this respect. The chief probation officer is a doctor, and the two have been combined from the first. The annual reports (1913, 1914) give an account of this work which may be recommended to every court in the country which contemplates undertaking similar work. They claim that a serviceable and thorough clinic can be established, so far as equipment is concerned, for about $100. Los Angeles also has a doctor as one of its probation officers. The combination is a happy one, which should be secured if possible for every staff. In Kansas City the chief probation officer is a doctor, but they have no clinic.

[2] For details in regard to clinical work in the several juvenile courts, the reader is referred to Appendix A.

the disposition, it should be subject to the same standards as "preliminary investigation" in the narrower sense.

Considered as a preliminary investigation, the physical examination is the bringing up to date of the grand jury idea, which originated before the days of criminology. The court must have the essential facts about every case, and the physical are coming to be recognized as equally essential with the social and legal facts.

There is an apparent dilemma between the statement that no children except serious cases should be detained, and on the other hand that all children should be medically examined. It would be solved were the latter duty handled by regular school medical inspectors, as it is already in some places.[1] The court clinic, or the sending back of children to the school specialists, would then be used only for repeaters. Louisville, however, reconciles the difficulty by having the children examined while awaiting trial, having them come early for the purpose. Since repeaters and those

[1] Several courts (*e.g.* Chicago, Indianapolis, Louisville, St. Louis, Seattle, Minneapolis, Brooklyn, Buffalo) have special forms for the purpose of clinical examinations. This is distinctly advisable for routine purposes. For intensive scientific work, however, Dr. Healy of Chicago prefers to avoid printed forms.

in detention are likely to need more intensive study, this situation offers a further argument for having the court and the special detention school on the same piece of ground.

If an intensive clinic is to be established, the first thing to do is to find the right man for its head. He must be much more than an expert physician and neuro-psychologist: he must have social intelligence and a magnetic personality. If such a man is not available, it is wiser to wait, and be satisfied with sufficient diagnosis for purposes of immediate treatment. The salary should be sufficient to secure a first-class man. Under the "selected case" system, or in any event for specialists' services, volunteers of high caliber can usually be secured. Some day we may consider the work so vital that specialists will be employed by the schools, too, for treating cases referred by the ordinary medical inspectors.

Dr. Healy in Chicago, and on a smaller scale, Dr. Schlapp in New York City, Dr. McCready in Pittsburgh, and Dr. Newkirk in Minneapolis are furnishing scientific interpretations of juvenile delinquency. Social as well as physio-psychic and environmental as well as hereditary causes are taken into account. In the true scientific spirit,

these men are not hastening to publish results until they have obtained them. None of these men are regular officers of the court. There are some advantages in this from a scientific standpoint; cases can be selected, confidences can be preserved, and more intensive work done. His endowment puts Dr. Healy in a unique and deserved position as the leader in such work in America.

Wherever tests have been made a high percentage of physical and mental abnormality is shown. There is no reason to suppose that the percentages would vary widely from city to city. I believe, therefore, that the scientific results of such studies will prove valuable, but that only a few of the largest cities can or need pay for elaborate enough work to be of real scientific value. Most clinics stop at the point where the causes isolated cease to be remediable, since more remote causes are of no further immediate practical significance for the treatment of the child.[1]

[1] For results of the work of some of the clinics, the reader is referred to *Journal of Criminal Law and Criminology*, July, 1913, pp. 278–282 (Dr. H. W. Newkirk); *Bulletin of the American Academy of Medicine*, "Proceedings of 1913 Conference," Minneapolis (Judge Waite and Dr. Newkirk); *Clinical Studies of Exceptional Children* in American Journal of Obstetrics, etc., Vol. LXV, No. 1, 1912

Except by judges in Portland, Ore., Philadelphia, and Baltimore, the value of this clinical work has not been openly questioned. It is the approach to a rational synthesis between the humanitarian methods characteristic of American penological reforms, and the positivistic theories of Europe.[1]

There remains, however, the same question as in the case of other preliminary investigations, whether this work is in its entirety a necessary adjunct of the juvenile court itself. The willingness of people to have their children examined and treated, voluntarily or with slight persuasion, provided no stigma of the court attaches to the proceeding,[2] points to the more general need of similar public provision through the medical inspection system for all school children who

(Dr. E. Bosworth McCready). *American Institute of Criminal Law and Criminology*, Bulletin No. 2, December, 1909 (a system for research); *Journal of Criminal Law and Criminology*, May, 1910, pp. 50–62, and *Case Studies in Mental and Moral Abnormality* (Dr. Wm. Healy) (Harvard Coöperative Store; a class book); *Report and Manual for Probation Officers*, Los Angeles, 1912, Part V (Dr. J. A. Colliver); *Reports of the Seattle Juvenile Court*, 1913, Part II, 1914 (Dr. Lillburn Merrill).

[1] See Chap. III.

[2] In Seattle, Minneapolis, Chicago, and in every court where the matter is tactfully handled, no difficulty has been encountered.

are slightly variant from the normal. If treatment is then refused by the parents, there would still be time to take the matter to court.

As for treatment, while it should be secured by common consent and even before bringing a child to court, if possible, yet when persuasion fails, the enforcement of proper care would seem to be the appropriate function of the court. If no other legal basis can be found, why should not the court have a separate charge of neglect filed in case of flagrant refusal of needed examination or treatment? In Toronto, St. Louis, Lexington, Ky., and in many other places, failure to give proper medical care is sufficient cause for a neglect charge.[1]

The whole question of the legal right to physically and mentally examine children is one which has been questioned chiefly in the eastern courts (Washington, Brooklyn, Manhattan, Philadelphia, Jersey City). In chancery courts, whether on legal grounds or because of the general spirit

[1] The Washington court under the old régime would not recognize any neglect but moral neglect. In contrast to this attitude is that of the Society for the Prevention of Cruelty to Children in Manhattan, which has tended to be one-sided in the direction of physical neglect. Both physical and moral cruelty should, of course, be recognized.

pervading the procedure, the proceeding is understood as for the child's benefit. So-called "invaded rights" are ordinarily quite obsolete functions. It is on these legal grounds, however, that examinations are placed after the declaration of delinquency (St. Louis, New York), or even after commitment (Washington, D. C.), unless the parents' consent is obtained.[1] Even where the pre-trial clinics are well established (Louisville, Seattle, Los Angeles), the parents' consent has to be obtained, though it is ordinarily granted as a matter of course. This is a point of law which should be cleared up by properly safeguarded legislation or by judicial decision, if modern criminology is to get firm footing in our courts.

[1] In Washington, the authority of the family was in this matter practically set above that of the court.

CHAPTER X

The Place of the Juvenile Court in American Criminology

America has developed penology where Europe has developed criminology. By this too violent contrast can be brought out, perhaps, what seems to be the real contribution of the juvenile court in the development of criminology.

In the United States, changes in the handling of criminals have taken place chiefly from humanitarian rather than scientific motives. In Europe, interest has centered rather on objective research work such as that of Lombroso and Ferri. In penal reform, the humanitarian motive is reformation, or rescue, or protection. The "positivistic" or scientific motive is social defense. To what William James called the "hard-headed" thinker, the humanitarian motive seems sentimental and impractical. To the "soft-hearted" thinker, the positive school of criminology seems feelingless and harsh. The humanitarian "reformer" without sound theoretical backing seems to say: "The criminal is not to blame — do not punish

him. He never had a chance. He is a man even as you." The deterministic scientist emphasizes the objective side of crime — the compelling forces of heredity and environment, the injury to society. He seems to consider the individual as worth saving chiefly because society demands the elimination of certain types with least loss to itself.

Each extreme point of view must, of course, be modified. The fallacy in the view of the humanitarian lies in assuming that the action of a court is necessarily "punishment," implying moral guilt. The absence of blame, guilt, or responsibility, in the old-fashioned sense, does not entitle the abnormal person to sentimental coddling. It may on the contrary render him subject to more serious treatment.[1]

The defect in the extreme positivistic view, in turn, is its failure to recognize, just as an objective fact, the occasional unsuspected possibilities of human nature, and the effectiveness and economic value of sympathy and faith in accomplishing that rehabilitation of dangerous individuals which is demanded by society in social self-defense.

It will be seen, however, that the common

[1] Cf. *Criminal Responsibility and Social Constraint*, R. M. McConnell, pp. 308–309.

element in both points of view is the legal and moral irresponsibility of the abnormal person. This is the kernel of the theories underlying the new criminal jurisprudence. The dangers in the theory of irresponsibility are that the sentimentalist may forget that even the child is objectively accountable for his condition, if it endanger society; while the criminologist, were he given full control, might on the other hand tend toward the soulless and fatalistic classification of types by physical or nervous stigmata, which would result in the too mechanical disposition and treatment of individual cases.

In the rise and development of the juvenile court we have the first practical synthesis of science and sympathy. By the reformation or protection of the individual offender the social defense is also most permanently and economically obtained. This synthesis is the essential contribution of the juvenile court to American criminal procedure. The welfare or value of the child is a motive which is not peculiar to the juvenile court alone, among child-caring institutions. Nor is the individual treatment of offenders confined exclusively to it; adult reformatories preceded it in this respect. In only one respect is

the juvenile court a pioneer. That is, the extension of the age below which, at least to a certain degree, the abnormal individual is considered not morally "guilty" or "criminal," and the introduction of methods at the same time intelligent and humane for the remolding of the abnormal individual to the point where he can live comfortably in society without disturbing it.

Before the days of the juvenile court the combination of the retributive idea with the question of responsibility meant that in the trial the chief issue was, "How much of a man is this child? In so far as he is a man, punish him; in so far as he is irresponsible, free him." The third possibility of educational treatment, which frequently would reverse the alternative just quoted, was not considered.

The juvenile court began as a protest against conditions. Children had been herded with adult criminals long enough. But it succeeded in combining in itself also the cardinal ideas of modern criminal science. In modern juvenile courts the children's lives are interpreted and treated in terms of heredity and environment, every means, from surgical operations to friendship, being used to repress the abnormal and release the normal expression of their energy.

CHAPTER XI

The Field of Special Education

When the chancery courts first took on the administration of the welfare of the children who were their wards, they furnished the precedent, not only for dependency jurisdiction, but for the probation department itself, as well as for all the differentiations of it which we are considering piecemeal in the various chapters of this volume.

To be sure, there was probation under the earlier criminal courts, but it was a legal affair resting on individualistic concepts. It was probation in the literal sense; simply a testing of the person's resistance to temptation under a single additional deterrent stimulus, without constructive measures to supplement it. To the chancery juvenile courts, however, were attached probation officers whose functions have been described as "constructive friendship." [1] Is there anything about constructive friendship to suggest punishment? It

[1] Cf. Roger N. Baldwin, quoted in *Preventive Treatment of Neglected Children*, H. H. Hart, ed., p. 272. See also Report of the National Probation Association (Ms. unpublished, 1913).

may involve discipline, but so does the ordinary schoolroom. Probation of this kind is a molding of character through new stimuli; reformation is but the suppression and redirection of energy. What is this process but a form of education?

The early chancery courts took guardianship of children under the state's general powers as *parens patriæ*. Is there any reason why this power in its administrative aspect should be delegated to a court? Are not the school and juvenile reformatory already exercising this power? and if so, why need probation, midway between the two, be administered through a court? A court's essential function is to adjudicate disputed rights.

"The business of probation is neither necessarily nor preferably a judicial function. It is executive, similar to the administration of a reformatory institution to which children are committed by the court. It is wholly unlike the judicial function. The primary function of the judge is to hear the proceeding, determine whether or not the steps taken are within the law, pass upon the investigation made, hear the evidence, and to enter such a judgment as may seem wise to him." [1]

That the ideals and essential character of probation are educational and administrative is in-

[1] Extract from Report of the National Probation Association (Ms. unpublished, 1913).

creasingly recognized. The implications of that proposition are not grasped so thoroughly. For here we have a double reason for separating the process of juvenile probation from direct association with the process of trial; it is administrative as contrasted with the strictly judicial; and it is educational as contrasted with the older primitive or purely repressive methods, with which courts are as yet too closely associated.

Humanitarian reforms are likely to take place first at the point of worst abuse. When the juvenile court was established, its founders naturally substituted probation as an adjunct of the court, instead of the unintelligent, brutal methods of treatment in vogue at that time. The schools then appeared to have little in common with the jail, and it would have seemed strange to add to them what would have been considered a pseudo-criminal function.

But from the point of view of social economy, in the light of the above arguments, a great mistake was made when first the law linked probation with the court instead of with the school.[1]

[1] In a sense, the Toronto experiment of the 90's was a better precedent than that of Illinois, in that it did not provide treatment under immediate supervision of the court.

While the authority of the law, or the special sanction of the court in disputed cases, is necessary in the kind of work done by probation officers, yet this is true also of truant officers, who have no direct connection with the court. On the other hand, the stigma and associations of compulsory correction are at present inflicted on many children who should and might easily be handled by voluntary arrangement. "Out-of-court" work and many other outgrowths of the several probation offices prove that a stigma attaches to any activities associated with a court. They are further perversions of the court's functions, which developed as the scope of probation methods broadened, because of the implications of the original precedent of juvenile court probation.

We have seen that clinical work, employment, truancy, and recreational adjustment might logically be and are already in many places being handled by the schools. There is nothing in them to demand the court connection unless the child or parents be recalcitrant in accepting social standards.

There remains the specialized individual work done by the probation officer as guide of the abnormal child. What is he in that capacity but a

special teacher? Indeed, he has more pupils of much more difficult type, to be handled in a much more difficult way and often with lower pay, longer hours, and less vacation, than the ordinary teacher.

Viewing probation then as essentially a form of special education inserted between the jail or prison on the one hand and the school on the other, let us follow the idea still farther in its wider implications.

Because the terrible conditions in prisons were sooner felt than other more fundamental social maladjustments, modifications of prison administration have been taking place for years. The modern sanitary penitentiary with its shops, magazine, drill, and grade and honor system; the colonies for insane, epileptic, alcoholic, vagrant, and feeble-minded groups, now considered wards of the state rather than prisoners; the reformatory for younger criminals and first offenders; "houses of refuge," "reform schools," "industrial schools," — all of these are progressive steps in the supplanting of the idea of retribution by ideas of social defense through reformation or segregation. They substitute constructive treatment, which looks to future social and in-

dividual welfare, for punishment, which looks to the past.

But it is not only the prisons which have introduced wiser treatment of abnormal individuals. Schools have more recently been undergoing a similar, less obvious, but equally important differentiation. As with old-fashioned treatment of criminals, individualism has been the very thing which stamps out individuality. Under the old régime each individual was supposed to have a free, equal, and responsible will, to which aberrations were due, and which, by a curious logical twist, was to be disciplined *after the act* through the very body which by hypothesis was supposed to have had no effect upon the will *before the act.* The system based on these theories gradually broke down under practical needs in the school as well as in the prison, and is giving place to intelligent adaptation of treatment to the needs of each case.

Truant and parental schools, to which in many places children can only be sent by court order, and not by common consent, are now a part of the public school system of our large cities. Truant officers, classes for incorrigibles, special classes for dullards, and special provision for

exceptional or bright children indicate further classification.

The detention home was originally an outgrowth of and substitute for the common jail or lock-up for detained defendants, but it has in many places become more like a special school for observation and diagnosis. Where there is close coöperation between detention home and court, the disposition of a case may be decided partly as a result of the detention home's recommendations; whether it be return to the regular schools, or, on the other hand, commitment to some reformatory. In the detention home the board of education usually places one or more special teachers. Here, then, is an institution crossing the line from the pseudo-penal to the educational, just as the parental school crosses the line from the educational to the pseudo-penal.

It seems to me that the detention home, the parental home, and the probation office, especially the last, are developments especially significant for the future of both education and penology. They show that the two fields have been approaching each other. The spirit and methods, even the terminology of education, have in fact long since penetrated modern reformatory methods.

Along the entire line of penal and educational

reform, the discoveries of proper methods of treatment and cure for more abnormal personalities have given the cue to intelligent preventive or conserving methods for the next less abnormal. If they did not, those would be right who complain, for example, that the cottage farm, or trade training, for delinquent boys or girls is too good for them, or that such things place a premium on crime. But when the success of these methods points the way to playgrounds and gardens and vocational education in the city schools for ordinary children, we see the value and intimate connection of the two fields of reformation and education.

Because the reformatories have in the past been exclusively compulsory, and because the mass of public sentiment has not shifted away from the retributive idea, the penal institutions and the school system have not been and cannot for many years be placed entirely in the same category for administrative purposes.

But the utility of the retaliatory and expiatory basis of old-fashioned justice, or public vengeance, is now superseded by the superior effectiveness, for social defense, of the educational method; and more and more people are realizing it. Moreover, if it is ever generally realized that reformatories are for

help, as are hospitals and insane asylums, and not for punishment in the old sense, we may have occasionally the phenomenon, now almost incredible, of voluntary commitments even to adult reformatories.

Already in many cities parents bring their rebellious (or superfluous) children to the juvenile court to get rid of them by commitment, or to scare them. They come to it, not as to a court, but as to an administrative agency. In such cases the court is not in reality acting judicially. The parents are disputing no right, and the court only concurs in their plan for special education or commitment, and sanctions their authority. As Judge Mack has said: "It is unfortunate that parents should have to go through even the form of trial to secure for their children proper education such as the reform schools offer. We ought not to have to wait until a child passes the delinquent line to give him decent training." There should be, as is shown by the spontaneous and widespread development of "out-of-court" work, an educational or placing bureau to which such appeals could be made and where matters could be adjusted without compulsory or pseudo-compulsory process.

Why not, then, announce frankly as our ultimate ideal, the fusion of society's educational and penal functions in a Department of Education and Correction, for adults as well as for children?

Correction includes all ages, and apparently would mix ill in a department which might also logically deal with libraries, social centers, and nurseries. But the education of criminals is only a step beyond that of feeble-minded and other defectives. Moreover, the educational system of great states like Wisconsin already includes all ages. Adults are not only taught in its universities, but, through extension work and socialized schools, they are brought together on the plane of ordinary life, to uplift that plane. That not only those who have climbed above this level but also those who have fallen below it need education would seem self-evident. While for practical purposes of administration such a vast field might necessarily be divided among several departments, there is no reason why the fundamentally similar nature of the tasks should not be recognized and the whole work permeated by the same spirit.

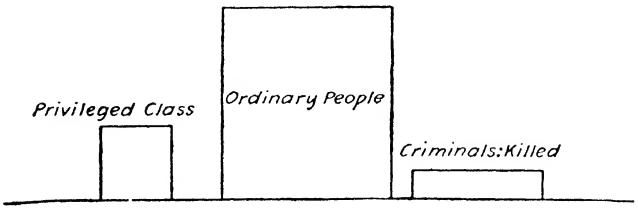
CHAPTER XII

A Modal Criminology

Conceiving the field of education as described in Chapter XI, let us analyze more thoroughly the essential function of special education in the social economy, and especially the relation which courts should bear toward it.

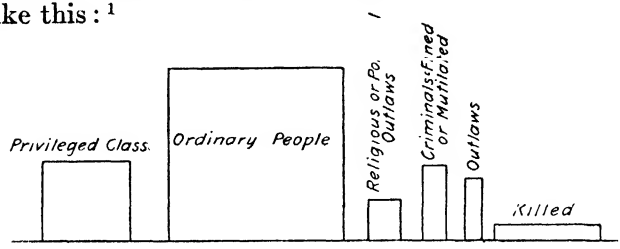
To this end, it will be convenient to retrace again with the help of certain statistical concepts and diagrams the progressive differentiations of penal and educational treatment.

In early times, people were apt to be classified as normal citizens, or they were killed off. The tribe, assembly, or judges decided the matter categorically. Society looked to them like this:

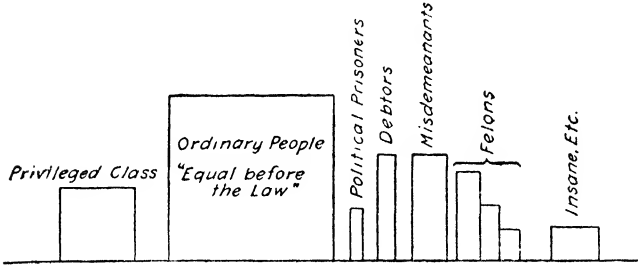


Difference in degree of antisociality was necessarily recognized early in the history of criminal

justice. Society came to look to people more like this: [1]



With the use of prisons for punishment, and the rise of the classical school of criminology, society came to look something like this:

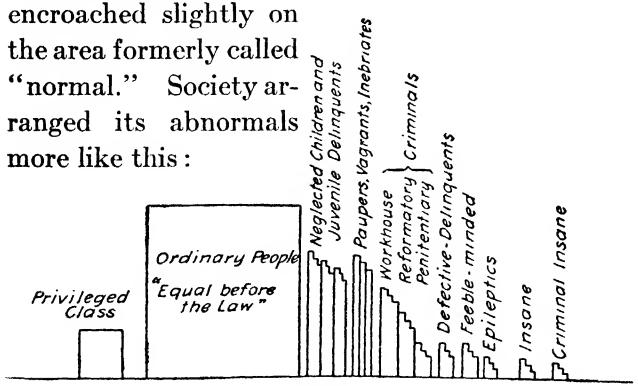


The distance from the central block in these figures indicates very roughly the degree of outlawry, and the area of the block, even more roughly, the size of the group. From this stage on, how-

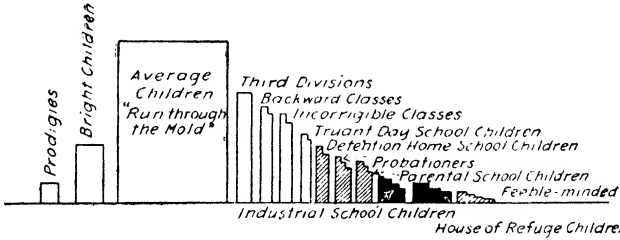
[1] In this and subsequent figures the differentiations in the "Privileged Class" are ignored, since they are of no significance to the argument.

ever, a three-dimensioned graph is really needed, to mark various parallel and simultaneous differentiations, which developed as a result of better practical knowledge of the nature of crime and the antisocial classes.

Certain groups, such as the insane and children under seven and to some extent under fourteen, were declared irresponsible and were differently treated. Political imprisonment and imprisonment for debt were practically eliminated. As classification proceeded institutions were developed to house the newly distinguished groups. Within these institutions the development of standards rapidly took the form of still further classification and grading of types. The area called "abnormal" encroached slightly on the area formerly called "normal." Society arranged its abnormals more like this:



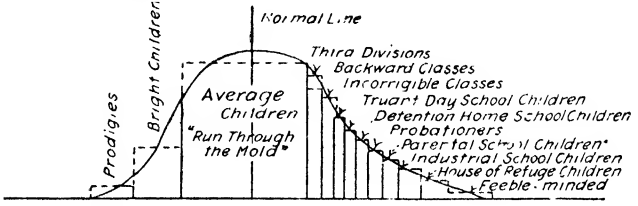
This book is primarily concerned with the abnormal child. Further eliminating from the figure, therefore, the adult part of society, the next figure indicates the development of differentiation within the schools, gradually approaching that within the so-called penal institutions for minors, which are shaded.



To a person familiar with statistical methods, there is an obvious line of argument from this point. Here we have an indefinitely increasing series of polygons which approach a curve as their limit. It is the ordinary frequency curve, familiar to statisticians in every field of science. Inserting this curve, the figure looks like the diagram on the opposite page.

The figure shows a definite *mode*, or average, of "normal" children, from which unusual types vary in each direction. For this reason I am call-

ing the ideas based on this figure a "modal" criminology.



One serious criticism can be made of this argument, however. Will it stand the test of facts? Does the number of children in each class named actually vary inversely with its degree of abnormality? This objection cannot be fully met without exhaustive research. However, auxiliary arguments may be offered in support of the plausibility of the theory.

The first is the general statistical theory of probabilities, applied to the probability curve itself. Social phenomena in such a tremendous number of widely scattered fields show a distribution according to some such curve, that there is a strong presumption in favor of assuming a similar distribution of types of mind and conduct in children.

The second is as follows: Institutional provisions are most likely to be made for numerically large

classes at first, the subgroups being segregated as their size increases or as new financial and scientific resources become available. The tendency of institutions has been to adapt their standards to the majority of their cases, and new institutions have been developed gradually for the minor gradations. In the diagrams above used, the names of institutions or arbitrary classifications have been used, ranged in their commonly accepted order of degree of abnormality. It might be shown that the children in parental schools are not nearly so numerous as those in reformatories; but this would not necessarily prove that the types actually fit for reformatories were more numerous than those actually fit for parental schools. Assuming our theory of the curve to hold good, such facts would only show that too many children were sent to reform schools, or that the methods of the reform schools should be copied by the parental schools, or that the parental schools were not big enough; or even that the reform school was including some still lower types, for which other institutions would be more suitable. It is a matter of common knowledge that commitments to institutions are frequently influenced by the facilities or lack of facilities at the disposal of juvenile

courts, and that no classification of children according to their real needs can be made under such circumstances. The distribution of children in our institutions, compulsory or otherwise, is, then, under present conditions, no indication of the real numbers of different types, or of the real distribution of traits among children.

On the contrary, the gradual development of new institutions, and of gradations within institutions for smaller groups, leads to the assumption that these groupings are largely arbitrary, and that there is no real dividing line between degrees of abnormality. There is a large group of so-called normal individuals, and they vary from this to the most abnormal in all directions, from the prodigy and the " angel child " to the idiot and the pervert. Of extreme types there are relatively very few, unless there be some bias of race, age, sex, or environment.

It seems to me, therefore, that we can be safe in assuming that, except for administrative convenience, human beings cannot be thrust into arbitrary pigeonholes and labeled.

The word "normality" as here used applies to such conduct as conduces to social well being. If there be some tendency in society, as is generally

supposed, toward success of the socially fittest types, the severity of the process of elimination will be likely to vary with the degree of abnormality, leaving in the long run fewer of the extreme types, unless the social group itself be decadent and destined to perish. Or, to put it differently, the very fact that society considers certain individuals abnormal and injurious because of their condition and conduct, and that there has been therefore a steady pressure to eliminate such traits (by segregation or rehabilitation), points to the assumption that the number of cases is likely to be less, the greater the abnormality. The great middle class of society lives under conditions which are in general favorable to its survival, else it would not be the "great middle class." The conditions under which "abnormal" types thrive and seem "fittest" are somewhat exceptional and are considered abnormal and injurious by the mass of society, which exerts pressure for their extermination, thus confirming the dominance of its own standards and increasing the numbers of its own type.[1]

These considerations also seem to point toward

[1] In a society in which the mass or mode does not also contain the dominant group, this theory would necessarily be modified.

the probability of the distribution of types indicated in Fig. 6. Assuming its validity, therefore, for the sake of argument, let us carry the thought further.

The older system of criminology did not recognize gradations in abnormality. It treated all in each pigeonhole alike. All those in the middle group were treated as if they were at the mode or "normal line" (see Fig. 6), or perhaps a little higher, since in a dynamic group the standards are set a little above the actual average. Upon all who failed to conform sufficiently, repressive measures were used, which soon tended to reduce them to a lower pigeonhole, perhaps to compulsory segregation. There were sheep and there were goats, and the goats were cast into outer darkness, where all looked gray or black, and no one looked for white spots through the dirt.

Modern education and penology are already working very much on a basis of indefinite gradations; but it seems to me that we have reached a point where the new formulation just presented will simplify and clarify their future development, even though it should prove to be a crude representation of the real facts. The figure of the curve shows graphically how education and correc-

tion are in essentials vitally connected and similar. The dividing line is not.

To make the figure complete, it would be necessary to put into it, not only the school, but the home, the playground, the recreation center, the settlement, the church, the relief society, the humane society, the placing agencies, and the whole child-caring system. The home, the church, the playground, the library, and the public school should be able to handle the central or modal group; the "normal" children. The school should recognize, however, that even *within its legitimate range* there are grades. Some of the children are slipping away along the base line toward the right of the figure. It should furnish for these children individual attention through the school visitor or medical inspector. If these do not succeed in securing greater conformity, the field of special education is at once entered.

Each step to the right in our figure means a failure of the institution or agency next preceding, either to reach or to cope with the case. The successes of institutions handling the lower types point the errors of the more nearly "normal" agencies.

Do not assume that the process of securing a

certain amount of uniformity necessarily involves an attempt to conform children to a single type or mold. The standard toward which they should be educated is that physical, mental, and moral equipment which furnishes the means of developing real individuality as easily and harmoniously as possible. The whole process may be called *modalization*. It consists simply in the checking of those impulses in children (or in adults) which make them vary from the normal or modal type in ways which the dominant group in society declares injurious to the individuals' harmonious development as members of society. The dominant group in society in this way protects itself most economically from the growth of anarchy and the attacks of "abnormal" individuals or variant groups who are aberrant from the standard set up by the dominant group as the "normal."

"When the home has failed, when the school has failed, when the church has failed, when the community at large has failed to produce a normal result in a child, the law undertakes the task; and often it fails." [1] At this point the relation of courts to this curve of special education should be taken up.

[1] Handbook of the Rochester Child Welfare Exhibit, 1912.

Under present conditions all child-caring and special education are voluntary, or at least they remain without the specific sanction of a court, until a child has slid along the scale to the stage of neglect or delinquency, or perhaps truancy, when the court can first take cognizance of it. Beyond that point, special education becomes entirely compulsory, at least legally so.

But, if the theory of modalization above formulated holds good, it may involve a change in the theory of the court's function in the system. Formerly, justice stood ostensibly blindfold, and her balance tipped hither and thither, dropping souls automatically into various pigeonholes, considered as absolute categories. Their stay in the pigeonhole was theoretically allotted by an equally automatic method. To work the metaphor perhaps a little hard, the offense committed caused the scale of justice to drop the individual into his appropriate box, automatically with greater or less violence according to the seriousness of his offense.

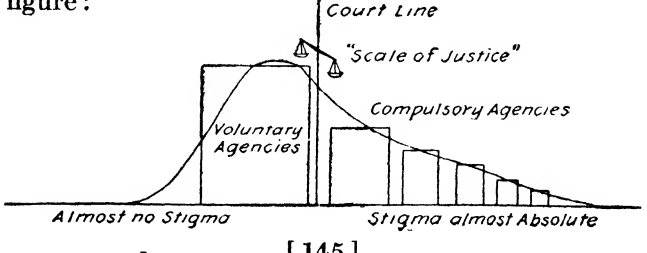
Unfortunately most individuals who are dropped into these pigeonholes are not strong enough to escape permanently from them, even when their term expires. They have been weakened and they

fall back. The walls are too high. There are no stairs to help them.

Of course, probation, indeterminate sentence, and parole are remedies for this trouble. They leave the details of the process of modalization to the administrative authority, at least except for changes of custody. But they are not thoroughgoing enough.

So far, courts are still thought of as dividers of the sheep from the goats — even though several kinds of sheep and several kinds of goats are now distinguished. Stigma — the consciousness or reputation of having been rebuked by society for aberrance from the normal — is still an absolute, not a relative, thing. The court stands stationary between the two groups of agencies, one so far almost exclusively voluntary, the other almost exclusively compulsory.

This state of affairs may be represented by a figure:



As long as this conception holds, a "court record" will indicate that an individual has passed a "dead-line" — a certain degree of variation from the normal which society rebukes with compulsory modalization. The stigma of criminality or delinquency is therefore associated with a certain arbitrary point on the scale of aberration. Indeed, to appear in court even for an acquittal is considered a strain by sensitive people. That is one reason why no form of modalization which it is possible to impose by voluntary consent of the parties whose legal rights are involved should be too closely connected with court action, with which compulsion is necessarily associated.

The thesis of this chapter is that, once the idea of absolute categories is dropped, there is no fixed *point* among the degrees of abnormality and special education at which a court can consistently stand. Of course, it cannot go beyond jurisdiction legally conferred. But the laws are also becoming less absolute. Juvenile courts, especially, have paved the way for a reorganization of the whole theory of judicial action.

The theory of retribution for moral guilt being removed, the juvenile laws came to give the court jurisdiction over acts which a "normal"

child might occasionally commit; acts which would in no way be thought criminal in an adult; and conditions only slightly variant from the normal. The juvenile court adjudicates cases far along the base line toward the mode.[1]

[1] For example, the Utah law reads:

"'Delinquent Child' shall include any child eighteen years of age or under such age who violates any law of this State, or any city or town ordinance, or who commits an offense not punishable by death or imprisonment for life, or who is incorrigible, or who knowingly associates with thieves, vicious or immoral persons, or who is growing up in idleness or crime, or who knowingly enters or visits a house of ill-repute; or who knowingly patronizes or visits any policy shop or place where pools are sold, or place where any gambling device is or shall be operated; or who patronizes or visits any saloon or dram shop where intoxicating liquors are sold; or who patronizes or visits any public pool or billiard room or bucket shop, or who wanders about the streets in the night time without being on any lawful business or occupation, or who habitually wanders about any railroads or tracks; or jumps on or attempts to board any moving train; or enters any car or engine without lawful authority; or is guilty of defacing or of writing on any wall, fence, or building or in any public or private place, any vile, obscene, vulgar, profane, or indecent language, or drawing any obscene or vulgar picture or pictures; or if guilty of any immoral conduct in any public or private place or about any schoolhouse." (Chapter 9, Sec. 720 x 18, as amended, 1911.)

"Any probation officer, constable, sheriff, police, or other peace officer may apprehend without warrant, and bring before any court of summary jurisdiction, as neglected, any child, apparently under the age of fourteen, if a boy; of sixteen, if a girl, who comes within one of the following descriptions, namely:

"1. Who is dependent upon the public for support, or is found begging or receiving alms, or thieving in any street, thoroughfare, tavern, place of public resort, or elsewhere, or sleeping at night in the open air;

We have seen that probation is an invasion of penology into the field of special education; or *vice versa*, if you please. But every disposition made by juvenile courts may be so considered.

"All the business of the court, aside from the features protecting the child from undesirable influence, is directed to his education. . . . The

"2. Who is found wandering about at a late hour at night, and not having any home, or settled place of abode or proper guardianship; or a child whose only surviving parent or guardian is an habitual drunkard, or a person of notorious conduct, or a reputed thief or prostitute or an habitual idler.

"3. Or, a child who is found associating or dwelling with a thief, drunkard, or vagabond, or other dissolute or degraded person, who by reason of neglect, or drunkenness or other vices of its parents or guardians is suffered to be growing up without salutary parental control and education, or in circumstances exposing the child to an idle or dissolute life;

"4. Who is found in or frequenting any saloon or place where intoxicating drink is sold, or is found in or frequenting any house of ill fame, either with or without the parent or guardian, or in company with a reputed prostitute;

"5. Who is found in the custody of vicious, corrupt, or immoral people, or surrounded by vicious, corrupt, or immoral influences;

"6. Who is found destitute, being an orphan or deserted by its parents, or having a single surviving parent who is undergoing imprisonment for a crime.

"7. Or, a child who fails to receive proper care and training because its parents, or parent are insane, having been adjudged so by a proper authority;

"8. Or, a child who is in the custody of either a drunken, vicious, or dissolute father or mother." (Chapter 10, Sec. 720 x 24, as amended 1909.)

disposition, like all other features of the court's procedure, is just one point in the educational programme for good citizenship.

" . . . It ought to be unnecessary to point out that the basis of all dispositions should be educational or protective, that is, that every disposition should be based on the idea of what is best for the child, whether it is a matter of his education, or in the case of neglected children often the matter of their protection, which, in the end, amounts to the same thing, as its education. There are, however, many judges who still adhere to the idea of punishment, *i.e.* of inflicting some pain upon a child as the consequence of his wrongdoing. In the modern movement there is no place for such an attitude. It is opposed at once to the letter and the spirit of the law. There is no justification for the attitude expressed on one occasion by a judge who said to a probation officer, 'What you propose is all right for the future of this child, and I have no doubt that under it he will grow up to be a good man, but the court cannot condone this offense, and the child will have to suffer for it.' . . .

"The chief value of restitution and reparation is not the satisfaction of the complainant, but the educational discipline of the wrongdoer.

"A commitment, whether used in connection with a delinquent or neglected child, is a judgment placing a child in the custody of an institution, and the word should be used in no other connection. A commitment is often erroneously looked upon in many courts as a form of punish-

ment. A child who has committed a serious offense, although home conditions and social environment are all right, is still considered a subject for commitment for his offense. A commitment, like all other dispositions, can only be justified on the ground of educational discipline, and should even then be looked upon as a means of discipline of the last resort. Institutional training at best is inferior to good home training, and its chief justification is that a child has gone so far that he is not able to be trained in the ordinary routine of a home, needing expert and close attention. Therefore, children whose habits are continuously bad and whose environments are ineffective, may be considered proper subjects for an institution, even on first appearance in court, if the condition is shown to have existed for any length of time.

"The institution is to be regarded as a hospital to which children should be sent until some assurance of a cure can be safely given. In cases of delinquent children, it should not usually be resorted to until after probation has failed to effect the cure. In the case of neglected children, commitments, of course, are based on a different motive, the educational discipline not entering into the case. The protection of the child is sought in such cases, and under the modern methods of care, such children are usually placed in family homes." [1]

[1] Extracts from the Report of the National Probation Association (Ms. unpublished, 1913). See also interesting decision of the Supreme Court of Connecticut (Reynolds *v.* Howe, 1884, 51 Connecticut 476):

Under such circumstances there is practically no point in an erring child's life where the juvenile court cannot step in and enforce the process of modalization, should it be appealed to for that sanction. The agencies handling children need not let them slide downhill for lack of authority, until they cross a dead-line and are branded with an absolute stigma. The juvenile court no longer stands at a fixed point on the base line of our figure, waiting with the scales balanced between two radically different groups of institutions. Stigma need no longer be associated with crossing a dead-line of conduct, but should be associated rather with the necessity of compulsory sanction for educational treatment of any kind, because of refusal to submit to the modalization process. But this sanction might be imposed

"This statute . . . creates no crime and does not treat the condition of the boy as anything for which he is at fault. It found its origin in the social necessity of saving boys from impending ruin and the community from the prevalence of crime. . . . The proceeding under the statute is not a criminal one. . . . The boy is not proceeded against as a criminal. Nor is confinement in the State Reform School a punishment nor in any proper sense imprisonment. It is in the nature of parental restraint. It is a mode of education to usefulness; compulsory, but not for that reason improper; and the restraint is a necessary incident of the compulsory education." This early statement of the essential nature of chancery proceedings as applied to children has hitherto not been given due recognition.

now by the court at any degree of demodalization at which the plan of some agency is disputed; even for comparatively slight aberrations like failure to care medically for a child, or truancy, or being in bad company. The stigma of a court record in this way comes to be a relative and not an absolute stain.

The metaphor which fits this concept of the court's activity better than the blindfold and the balance, is the accurate and open-eyed measurement of the diagnosing neurologist, who, in cases appealed to him, decides how far along the right-hand line the individual has deviated from the normal, and decides from that which treatment can be sanctioned for the hospital, the nurse, or the home to carry out.

The invasion of the field of education by the juvenile court is, in reality, the necessary complement of the idea advanced by Professor Hotchkiss,[1] that the compulsory education power might be extended into the field now occupied by the court's philanthropic activities and by the detention home, probation, and the milder reformatories. Compulsory education may indeed spread into

[1] *The Juvenile Court as It is To-day*, Proceedings of National Conference of Charities and Correction, 1912.

these special fields, but it cannot be truly compulsory without a court's sanction in disputed cases. The distinction must be sharply maintained between judicial action and treatment of any kind. Let the court's work parallel compulsory education throughout the application of that principle.

It has been contended by very progressive thinkers on juvenile court matters that the court should eventually be nothing but an agency for the commitment of extreme cases. This is based on the otherwise good argument that most other dispositions can and will be secured voluntarily. I would even go so far as to say that much permanent segregation of children shown to be permanently dangerous could be so secured. Already the "industrial schools" are so attractive that many parents come to the court to secure commitments in spite of the social stigma which attaches to the fact that such commitments are usually against the will of those concerned.

But I do not agree that this theory implies that the juvenile courts should try to eliminate arbitrarily all but commitment cases. By so withdrawing its support the juvenile court would undermine the authority of the various special

agencies, and eventually increase its quota of commitments. It is only by for a while sanctioning plans for reform at earlier points of demodalization that it can strengthen the educational agencies to the point where eventually only extreme cases will reach the court for compulsory segregation.

As Judge Williams of St. Louis has said, a court with absolutely no business might thereby best prove its efficiency in deterring offenders. Even if educational and correctional agencies developed until their recommendations were as freely taken as those of hospitals now are, courts would be a necessary background for the system.

CHAPTER XIII

When is a Juvenile Court not a Juvenile Court?

Probation and its adjuncts have so far been such a conspicuous feature of the work of juvenile courts that they have over hadowed in the popular mind the function of the court in the narrower sense. Yet theoretically speaking, the arguments of preceding chapters have stripped the juvenile court of the function of probation.

If the kinds of special education now done by probation officers are shifted to schools or other administrative agencies, what is there left for the court proper to do? We have seen that there remains the task of adjudicating disputed cases at any point in the educational-correctional system, from the common school to the industrial school or school for the feeble-minded.

If, however, the child under a certain age is declared from the legal point of view irresponsible, and is legally subject to the control of his parents, is it really the child's legal rights which are being

adjudicated? He is still physically accountable to society (*i.e.* subject to treatment), for his acts or condition. But so far as freedom and legal authority are concerned, it is really not his own rights but the rights of his parents as to his custody and training which are being confirmed or set aside by society.

A child has no legal responsibility as to contracts of property or marriage. If he is only to be held responsible for his moral acts so far as the stimulation of his conscience will be of educational benefit, or so far as guidance and physical treatment will release normal instincts in him, why should he be brought into court at all, except as a witness?

At the time the act or condition occurs, the parents are supposed to have custody of him. Ultimately nothing can be done to that child without the consent either of the parents or of a court. If the child while under parental custody slips too far away from the mode, or normal, the parents, the school, or some special philanthropic agency will take cognizance of his abnormality. It may be through no defect in the home that the child has erred; rather through the failure or absence of social provision for normal needs,

such as the playground, the school, the library, or the church. The special agency may obtain the consent, tacit or explicit, of the parents for its plan of "re-modalization." The child is then placed under that agency's control, according to law, or purely voluntarily, for the purpose of reducing his abnormality. If the parents dispute this control, even though a written statute is back of it (*e.g.* the compulsory education law), recourse must be had to the courts. The court balances the right of the parent to control the child as against the right of society acting through the agency. It decides, on the basis of the child's degree of aberration from the normal, which type of educational treatment or custody will best serve; and if necessary it transfers this custody and authority wholly or in part from the parent to the proper agency.

This whole matter of the control and obedience of children is a domestic relation. We should, then, face squarely this fact: that, once the responsibility of the child is eliminated, any court action in regard to the parent's rights is of the nature of proceedings in a domestic relations court, and should be dealt with as such.

If, then, we shear off the probation office from one side and from the other that part of the work which is essentially the work of a domestic relations court, there is nothing left for a juvenile court as a tribunal for "juvenile offenders."

Many expert opinions already attest the intimate connection of the two courts.

Mr. Bernard Flexner states it as his opinion that juvenile courts will eventually link up with the domestic relations courts, while Judge Mack expresses a similar thought in opposite terms, viz., the taking on by the juvenile court of domestic relations, nonsupport, and desertion cases, whether or not they involve children. From the point of view herein presented, Mr. Flexner's statement of the tendency is the better.

Miss Lathrop, of the Federal Children's Bureau, has put the matter in the following way:

"There is no doubt that the juvenile court and the domestic relations court quite naturally go together, at least so far as concerns any cases affecting children, because the domestic relations court is largely for the trial of nonsupport cases or cases where there is a bad father or mother, in which, if the disposition of the children cannot be arranged for at the same time, the whole proceedings must be transferred to another jurisdiction, with no possible gain."

This suggests the possibility of having, for small cities, a single judge, staff, and record system, with

double jurisdiction and separate sessions for adults and children.

Professor Hotchkiss [1] points out the handicap the separation of the two courts. He would seem to lean, however, like Judge Mack, toward their fusion under the juvenile rather than under the domestic relations court. This does not seem to be consistent with his proposal that the juvenile courts' work be taken over by the schools.

Mr. Graham Taylor, of Chicago, expresses his opinion as follows:

"The functions of the juvenile court are sure to be permanent, but may be combined with any other court dealing with the parents. There would be a great advantage in having one court deal both with the parents and with the children. A combination with the court of domestic relations would economize time, personal resources and money."

Writing on domestic relations cases, Mr. W. H. Baldwin, of Washington, D. C., says: "In smaller cities the work may be done in the juvenile court, as it is now done by Judge Taylor in Indianapolis, Judge Addams in Cleveland, though Cleveland might be large enough for a special court, Judge Black in Columbus, and Judge DeLacy in Washington." [2]

In this matter there need be no quarrel about

[1] *The Juvenile Court as It is To-day*, Proceedings of the National Conference of Charities and Correction, 1912. See also the Report of the Hotchkiss Committee, Chicago, 1912, pp. 13, 27.

[2] Journal of Criminal Law and Criminology, Chicago, September, 1912.

names or details or organization. If it seems expedient to retain the name of juvenile court, let it be so, only let it be parents, not children, who are summoned or cited before the court.[1] It may be found convenient, as in New Jersey,[2] to confer on the juvenile courts jurisdiction in domestic relations cases involving children, instead of *vice versa*.

In large cities the work done by domestic relations and juvenile courts could not possibly be handled by the domestic relations court alone.[3] But if the juvenile work must be organized separately, its legal basis should be changed, so that parents (or officers and agencies in the case of orphans) would be the respondents. The main point is that children should not be brought to court and tried for their condition. It matters little whether the court be called a juvenile court, a domestic relations court, an educational court, or a parental court.

The last-named title suggests some mention of the experiment planned by Judge Willis Brown.[4]

[1] Cf. the present practice in Utah (Chap. 9, Sec. 720 x 7 as amended 1909), Oregon (Report, 1906), California (San Francisco Report, 1911), Baltimore (extra-legal).

[2] Laws, 1912, p. 630.

[3] Report of the Hotchkiss Committee, Chicago, 1912, p. 13.

[4] Mr. Brown is not a lawyer, but it is said that not this fact but judicial indiscretion led him to exceed his powers while judge of the

His experiment was abortive, but contains some good ideas. It is an unfortunate thing that the usefulness of good ideas should occasionally be endangered by their association in people's minds with unwise experimentation.

Judge Brown is right in insisting that so long as a child is himself brought to trial, with the possibility of compulsion being exercised, his status is only a modified form of that of the adult criminal. Once, however, he is considered quite subject either to the parent or the state, the disputed question becomes one of custody and education, and the matter of the child's responsibility is not raised.

The practice and opinions of a number of courts

Salt Lake City juvenile court. He was invited unofficially to Gary, and launched at once a plan for a "Parental Court." It never got beyond some news articles and a set of printed forms. It was quite extra-legal.

Boiled down to its essentials, Mr. Brown's plan for a "Parental Court" was just such a voluntary bureau of appeals for special "examinations" (his word for hearings) of "deficient" (his word for delinquent) children as we have suggested that the regular schools might establish, to replace in some of their functions the detention home, the preliminary hearing and "out-of-court" work. It also afforded an opportunity for voluntary commitments by the parents to a "Parental School" without real court record. Parents, not children, were to be "notified" of the "examination" into the matter of the children's custody and care. An appeal to real courts was retained.

seem to indicate that there is already a strong movement in the direction of alliance or fusion of the juvenile courts with those handling domestic relations.

The experience of the *Baltimore* court in its earlier years shows this tendency:[1] "Although the law deals with the child, it is the parents who are often the real probationers. The center of the probation officer's work is the home."

In the *New England* states and in *New York*, except for *Buffalo*, there has been no movement to link domestic relations work, and only to a slight extent adult jurisdiction of any kind, with the juvenile or children's courts.

Mr. Wade, of *Buffalo*, who, with the rest of the State Probation Commission, was back of the domestic relations court there,[2] objects to its connection with juvenile court practice. The domestic relations work had previously been organized under Judge Nash of the City and Children's Courts, and was and still is separate[3] from the Children's Court. As early as 1904 (Report, 1904) the *Jersey City* juvenile probation office handled much work which was essentially in the field of domestic relations. At present the county juvenile courts of New Jersey handle

[1] Miss Lucy Friday, in *Charities*, XIII (1905), p. 358.

[2] This court (opened January 1st, 1910) was the first of its kind.

[3] Cf. W. H. Baldwin, *The Present Status of Family Desertion and Non-Support Laws*, Proceedings of the National Conference of Charities and Correction, 1911.

domestic relations cases involving children,[1] which are transferred to it by any other court, or by an application of one of the parties and consent of the juvenile judge.

The new *Philadelphia* Municipal Courts law provides somewhat close connection between the domestic relations and juvenile work, which are made parts of the new system. There has been some talk in *Pittsburgh* of placing the juvenile work in the Allegheny County Court, which would connect it fairly closely with the domestic relations work.

The new *Ohio* Children's Code gives certain powers in the field of domestic relations to the juvenile courts of that state, in addition to the strong powers over contributory dependency and contributory delinquency already possessed by them. "In Cleveland the Humane Society which two or three years ago depended on the Police Court now takes all its cases to Judge Addams, partly because he can impose longer sentence, but mainly because they get better attention."[2]

A prominent member of the *Louisville* probation staff feels the advisability of having the juvenile court as such take on some domestic relations jurisdiction.

The *Indianapolis* juvenile court boasts in a recent report of being also a domestic relations court, though the law does not call it such. "The In-

[1] Cf. Newark, Report, 1911.

[2] W. H. Baldwin, *The Present Status of Family Desertion and Non-Support Laws*, Proceedings of National Conference of Charities and Correction, 1911.

diana Juvenile Court statute does not stop with the trial of delinquent children and the sending of dependent children to orphans' homes. It also provides for the protection of children against neglect or cruel treatment. When parents fall out and separate, the fathers usually forget that they are still under a legal as well as moral obligation to support their children and even when they are living together a lazy, drunken husband often refuses to make proper provision for the support of the children."[1] Occasionally, even cases of adultery are brought in under a broad interpretation of the contributory neglect law! "Thus it will be seen that this Court now has jurisdiction of most all controversies arising out of domestic relations except divorce and alimony, and more than one half of the time of the court is devoted to the trial and adjustment of cases between or against parents and other adults under the above laws enacted since the Court was first established as a mere juvenile court."[2] "During the period of three years, following the enactment of the law of February 23d, 1907, giving the court jurisdiction in cases against adults for neglect and non-support of children in their custody, only five hundred and twenty-three (523) of such cases were filed . . . while in the twelve months from July 1st, 1911 to July 1st, 1912, six hundred and four (604) of such cases were filed and tried."

The point of view of the *St. Louis* court is partly shown by the following extract from its 1912–1913 Report:

[1] Report, 1910–1912. [2] Report, 1910–1912.

"In a case of neglect, in reality the parents, not the children, are on trial, and the children, especially young children, often do not appear."

Mr. Fullerton, the chief probation officer, opposes any extension of the jurisdiction of the juvenile court on general principles; but would, I think, welcome any move toward the transfer of the work to the category of parental relations. Judge Williams, of St. Louis, formerly of the juvenile court, is opposed to any connection of the juvenile court with domestic relations work. At least one of the present judges, however, favors the idea. The chief hobby of the St. Louis court, however, is not so much the domestic relations character of the court, as the educational character of probation.

In *Chicago* "the establishment of one court to deal with the family problem as a whole was urged by Judge Merritt W. Pinckney — 'Declaring that parental neglect and incompetence were responsible for most of the delinquency which brought to court three fifths of the 12,000 children who have passed through it during his incumbency, he showed how cumbrous is the present division of jurisdiction among several courts. The problem of support, he pointed out, is dealt with by the County Court, trouble between husband and wife occupies the attention of the Domestic Relations Court, proceedings for divorce come up in the Circuit Court, and the interests of the children are the concern of the Juvenile Court. Not only happy settlement for the family, but economy of time and effort for the courts, demands that one

tribunal have power and jurisdiction to cover all phases of such a case.'" [1] The Chicago probation officers are often the complaining witnesses in the court of domestic relations. The two courts should be more closely connected by law and by coöperation, but the vast amount of business and certain political and legal difficulties, would make a fusion inadvisable. "Unless the difficulties just mentioned can be speedily overcome it is to be hoped that a more adequate juvenile court building will make it possible through mutual coöperation to establish the Court of Domestic Relations of a branch thereof in the same building with the Juvenile Court." The domestic relations court of Chicago is as thoroughly socialized as the juvenile court. It already handles cases of nonsupport, contributory delinquency, and contributory truancy, which are in most places handled by the juvenile court.[2] The court was actually established largely through the efforts of the group connected with the juvenile court and the Juvenile Protective Association.

In the 1912 Report of the *Grand Rapids* court are the following statements, very *apropos* to our thesis at this point:

"I hope the time will soon come when we may have a court of domestic relations that can work with the Juvenile Court and that the parents of

[1] *The Survey*, May 11, 1912.

[2] See *The Court of Domestic Relations of Chicago*, W. H. Baldwin, Journal of Criminal Law and Criminology, Chicago, September, 1912: 2168 out of 2796 cases in 1911 were in these categories. See also *The Survey*, May 11, 1912.

the children may first be tried for all delinquencies committed by their offspring rather than hold the child responsible for offenses." (Report of Clara E. Kummer (former) secretary, Charity Organization Society, p. 29.)

"The Juvenile Court of Kent County is simply a forerunner of a changed idea that is taking hold slowly, but firmly. Like all other pioneer movements the juvenile court has had many imperfections and limitations, but a clearer conception of this pioneer idea by the entire community will be instrumental in working out still better things for our city and county. We feel that the time is not now far distant when provision will be made for the establishment of a domestic relations court to take over the work of the juvenile court. In addition such a court would handle all matters of divorce, non-support, desertion and adoptions, thus grouping every kindred problem of the home under one head. The drunken or dissolute parents could be put on probation or sent to institutions for treatment and the family that they have failed to support, properly managed under the supervision of the court." (Report of John P. Hayes, County Agent, State Board of Correction and Charities, pp. 18–19.)

In *Detroit*, there has been a situation like that complained of in Chicago by Judge Pinckney in the quotation above.

"There is much confusion and waste effort in the judicial handling of the various phases of the domestic relation which require adjudication.

"If a man is arrested for non-support he is taken to the Police Court; if for desertion to the prosecutor's office and the Recorder's Court; if he is neglecting his children, to the Juvenile Court; and if either party then seeks relief in separation, to the Circuit Court. No one judge has a full history of the matter nor a suitable opportunity to develop this vital field of the adjustment of domestic relations.

"We believe in, and are now urging before the legislature, the establishment of a Court of Domestic Relations, which would considerably simplify the practice, would develop the modern history of specialized jurisdiction, would avoid the frequent evasion of alimony orders, allow the development of the probation system, particularly needed in this field, and by an adequate corps of investigators enable the court to reach its conclusions from all the angles of family influence." [1] The law now in effect allows the domestic relations court jurisdiction of adults in neglect cases, which the juvenile court could not handle under its chancery powers. Much of the work of the present juvenile court might conceivably be forced back on the domestic relations court under that clause.

The tendency toward fusion of juvenile with domestic relations work has not been strong west of the Mississippi, probably because the latter work has not there been so clearly differentiated as in the courts of the larger eastern cities.

[1] Report of the Detroit Society for the Prevention of Cruelty to Children, 1913, pp. 10–11.

In *Denver* the tendency is similar to that in St. Louis. "It will be the purpose of the court, as it has been in the past, to avoid filing cases against children and to avoid bringing them to court unless it is absolutely necessary." [1]

The *Canadian* Acts give the juvenile courts adult jurisdiction, but there is no definite movement toward the domestic relations idea.

There is a platitude repeated *ad nauseam* in juvenile court reports and elsewhere to the effect that it is really the parents, not the child, who are to blame, or should be held responsible or who are on probation. By openly transferring to the parents the *onus* in cases involving the custody and special education of children, what truth there is in the above statement will be made useful. Many parents are not directly responsible in a willful sense for their children's delinquency. Nor are any parents "morally guilty" of it in the old-fashioned free-will sense. But under the arrangement here proposed they would be held *accountable* to society for the condition of their children, in the same sense that industries are now held *accountable* for accidents, simply because social pressure at that point is most effective in securing the desired result.

[1] Report on the Juvenile Court of Denver, 1913, p. 7.

If the child, through abnormal heredity or through defect in the home, even through no direct act or omission of the parents, is found to be abnormal, special education of some kind comes into play. Special education is really nothing but social provision for defects in normal social control, which should operate through the home, the school, the church, and other normal institutions.

If the parents object to this process, the custody of the children is disputed, and if the court so adjudges, it is taken away from the parents, so far as the plan of special education is concerned. This would hold whether the case were one of serious or only slight aberration from the mode.

While this kind of parental accountability should be distinguished sharply from willful contributory delinquency, neglect, nonsupport, and contributory truancy; yet the powers of many juvenile courts over adults who commit these offenses is an indication of the direction in which juvenile jurisprudence is moving. In courts without such powers, it is so much easier to send a boy to truant school, and be done with him, than it is to prosecute the parents before another court for contributory truancy and keep the boy in more normal condition.

Many of the laws found necessary to supplement the laws establishing juvenile courts trench upon the field of domestic relations.[1] The connection between the two fields is not only one of legal theory. The whole family hangs together, and the child cannot be treated adequately without power to adjudicate any condition arising in the family unit. The court which handles juvenile cases must therefore be able to decide any disputed rights within the family unit, and sanction some plan for its remodeling or "remodalization," as a unit.

The general tendencies above formulated may be considered a part of the still wider trend toward considering the family as the unit of treatment in all social work — whether charity, education, or recreation. The individual child cannot be handled successfully apart from his background. Widows' pensions are only a single and somewhat aberrant example of this tendency. Similarly, so-called "family rehabilitation" without material relief is not charity except as to its economic basis in large charitable funds. It is rather special education or modalization of the *abnormal*

[1] *E.g.* bastardy laws, age of consent laws, laws in regard to guardianship, possession of children's wages, nonsupport or desertion.

family taken as a unit, — a development corresponding to the extension of the school to include the *normal* family as a whole.

The practical lesson from all this would seem to be that instead of the juvenile court being considered the only or the typical socialized court, upon which new functions should be thrust, the domestic relations court should become the focus of the new jurisprudence.

Recent writings on the juvenile court and frequent hints in court reports lean strongly toward some change in the character of the juvenile court. Some, however, talk about attaching the court to the school system, while others, like those just cited, indicate its intimate connection with the courts of domestic relations. For a long time the evolution of the juvenile court in either of these directions seemed to the writer equally logical, equally probable, but mutually inconsistent. Finally, however, by breaking up the concept of juvenile court into its radically different functions of education and adjudication, and expanding both to fit the family unit, what seems a rational and practical solution has been obtained, including both the alternate possibilities.

CHAPTER XIV

The Present Task of the Juvenile Court

Assuming now that the foregoing arguments are valid, and that the wisest future for the juvenile court is gradual self-abolition by sloughing off probation work and merging with the domestic relations court, what are the immediate means to this end?

We saw that the probation officer, especially in the early days of most courts, has been a sort of jack-of-all-trades and repairman for the child-caring system. Until the child-caring system has been worked out completely, the defects in it will allow children to slip from leash and wander from the normal. As long as that is true, the probation officer will have work to do other than his primary task of constructive friendship or special moral education.[1]

[1] Jersey City furnishes a good example: "Outside of the work strictly within the scope of this office we have had to meet and try to solve many questions for those who did not seem to be able to obtain relief from other sources, such as reconciling of wife and husband, securing admission and treatment in hospitals for probationers

Some of the eastern courts, where the tendency has been to slump to the level of old-fashioned courts, have not been sufficiently aggressive to develop probation much beyond the formal report or visit. Less "out-of-court" work is done, and fewer "adjuncts" of the probation office, such as clinics, have been organized.

Some probation officers, especially in the west, have, however (as was shown in Part I), attempted to take on this extra work as a part of their legitimate and permanent task. They have attempted to be "all things to all men," with somewhat disastrous results. There are many experiments being tried with no clear-cut theory in mind, or worse than none, which are in danger of making the juvenile court a hybrid or disproportionate structure. A little theorizing, such as has been done in this book, may help to lop off these excrescences.

H. H. Hart has stated the function of the juvenile court in the following terms: [1]

"Finally, the juvenile court is the natural center in the community around which to group

and others, disposition of dependent children, securing employment for those out of work, taking care of and housing minor witnesses, arranging for cure of drink habit, etc." (Report, 1904.)

[1] *Annals of Political and Social Science*, Vol. 31, No. 1, p. 60.

all the social efforts made to remedy defective home conditions, to safeguard the health and morals of the young, and to insure the children an atmosphere friendly to the development of the highest citizenship."

If this be taken in a sense complying with the scheme outlined in a previous chapter,[1] we can accept it here. If it means the development of the juvenile court as a sort of department of children, running everything from employment bureau to dancing classes, it must be almost unqualifiedly condemned.

Even the Hotchkiss Report (Chicago, 1912, p. 30) seems to fall in with this wrong point of view:

"A probation department must in the nature of things perform a variety of functions. Relief must be secured for needy families; employment must be found for children of working age."

This seems to be the idea with which the Denver court started.[2] At least those courts which have attempted to imitate Judge Lindsey's "methods,"

[1] Chapter XII, A Modal Criminology.

[2] Cf. *The Beast*, Lindsey and O'Higgins, pp. 87, 106, 134, and especially p. 153: "Our charity benefits, — Fresh Air Fund, the summer camp, the day nursery, and other branches of *our work*." (The italics are not in the original.) Cf. B. B. Lindsey, *Charities*, XIII (1905), p. 356.

have been those in which outside activities have been especially developed. Columbus, Washington, D.C.,[1] Portland, Ore.,[2] Seattle,[3] Des Moines,[4] Salt Lake City,[5] and Winnipeg[6] are perhaps good examples of this type of court, though some of them have already passed beyond the expansive stage. Under Mr. Weir as chief probation officer, the Cincinnati court was run somewhat on this basis; the juvenile court was supposed to be the focus of the city's social work.

It is sometimes hard to discriminate between an aggressive, socially minded court or probation office which goes out of its sphere in its eagerness, and an equally progressive group which simply "starts things" in its community, like those of Boston and St. Louis. Courts in new communities should be willing to jump into a breach in emergency. The test is whether the work is done

[1] Reports, 1907–1909.

[2] Report, 1906.

[3] Reports, 1911–1912.

[4] Reports, 1908, 1912.

[5] "We are hoping that in the near future these departments [the probation office] will be equipped with a labor-finding organization, a home-finding organization, an organizing organization and a home-visiting organization. The officers, however, in these respective offices, together would most likely form the visiting organization." — Letter to Hotchkiss Committee, Chicago, 1911.

[6] Report, 1911.

frankly as a stop-gap, as a church might furnish recreation while urging the establishment of a playground, or is assumed to be a permanent undertaking.

In Chicago, for example, Mr. Witter, formerly chief probation officer, stated the matter as follows:[1] "In every city until some competent . . . organizations are effected that will see to it that the march of delinquent and dependent children toward the juvenile court is checked, an obligation falls upon the juvenile court worker, already heavily taxed with a specific line of work to make this a part of his burden." The present chief, Mr. Joel D. Hunter, is ambitious to extend rather than restrict the functions of the juvenile court: though of course in Chicago coöperation and differentiation of social work is highly organized, and makes such extension unnecessary in most directions.[2]

The confusion between advocating and administering, where it has occurred,[3] has been due to a

[1] Proceedings of the Third Annual Conference of the Juvenile Court Judges and Officers of the Middle Western States, 1911, p. 2.

[2] For the distinction between a coöperative child-caring system and a court which tries to do everything itself, see especially Mr. Bernard Flexner, *Charities*, XXIII (1910), p. 632, reprinted in *Preventive Treatment of Neglected Children*, H. H. Hart, ed., pp. 284 ff.

[3] The following from the 1912 Report of the Grand Rapids court shows typically the curiously mixed concept which some courts have of this matter. "The Juvenile Court becomes therefore much more

misinterpretation of such statements as the following:

"The court must be so organized that it can be readily brought into touch with and be *given the opportunity of correcting all the conditions* that may be responsible for the appearance of the child in court. To this end the court should be clothed with power to enforce all other laws affecting children, *e.g.* compulsory education law, child labor law, and laws for the punishment of adults who contribute to the conditions of neglect and delinquency of children. In some states the juvenile court is given concurrent jurisdiction with police, municipal, or criminal courts in a certain class of cases affecting children, or over adults who contribute to conditions of neglect or delinquency in children. It may fairly be said that in all of the foregoing class of cases, the jurisdiction of the juvenile court should be exclusive unless for compelling reasons it is necessary to divide the jurisdiction with some other tribunal." [1]

This statement can be held altogether true without involving the court in the obligations of *administering the treatment* needed to correct

than a part of the judicial machinery. It broadens into a social institution. In its latter character its work is largely administrative and consists, for the most part, in furnishing the legal status for social agencies whose work is among and in behalf of children."

[1] Extract from the Report of the National Probation Association (Ms. unpublished, 1913). Italics are not in the original.

all childhood's troubles. Perhaps "enforce remedies" would be a less misleading phrase than "correct conditions." For example, "the judge ought to have the right to order a pension, granting that the case become clear, just as he would have the right to order the child into an institution. But I do not think he ought to have to deal with the machinery of securing it or of administering it." [1]

Clearly, if the juvenile court is eventually to turn over probation to the school system, its first task is to clear itself of all the extra activities with which it is burdened. It must force back on the existing agencies without trial every case that can possibly be handled by them on a voluntary basis. Compulsory treatment, or treatment associated with a compulsory agency, should be avoided where possible, for it is that which creates a stigma. "The fewer cases a court has, the better." Further, the process should be continued with those on probation: so far as possible children should be *put on probation to agencies : i. e.* the agencies' plans should be thereby compulsorily determined or approved and sanc-

[1] Opinion of Miss Lathrop, of the Federal Children's Bureau.

tioned, without further administrative action from the court. In cases demanding special moral guidance or skillful correlation of agencies, the probation officer may supervise; but even under present conditions all except the most intensive individual work should be forced back upon existing agencies.

It should be made clear to other agencies with due tact that while the court is there to enforce wise plans when necessary, yet every appeal to the court and to compulsory probation means a confession of failure on the part of the police, school, relief society, or whatever it may be, to handle the case by its own efforts, on a voluntary basis.

If all the courts worked out their policies of coöperation carefully and clearly on the above basis, they might reach the same point of view. Coöperation, as has been said above, is not merely working together, nor a willingness to do anything for anybody.

The whole matter cannot be better stated than it is in the Report of the National Probation Association:

"From a large point of view the coöperation must be translated into a community movement

which systematically forces back upon the normal constructive agencies the responsibility of so relating themselves, one to another, that the juvenile court will be an unnecessary adjuster between them.

"Among the principal feeders of the juvenile court in most cities are the attendance and truant officers of the public schools. A child plays truant or misbehaves in school; he is reported by his principal to the truant officer. The truant officer sees him, makes a few attempts by warnings and other methods to keep him in school and, when that fails, reports him to the court. Now, while the probation officer cannot effect this system, and while he gets on probation many of the children with whom the attendance officer has unsuccessfully dealt, still the probation officer, through the chief probation officer and the judge, can take up directly with the other agencies of the community, the need for changing that system. In one city, for instance, a large number of truants were prevented from coming to the juvenile court by the establishment of three special rooms in the public school, these rooms to receive truant or incorrigible children from the grade schools on certificate of the principal of such a school to the superintendent of instruction that the child in question was beyond his power to manage. Very few principals were ever willing to sign such a certificate, and the result in three years has been that there are not enough children for one room. The process has been, of course, to force back upon each principal the responsibility of providing for the exceptional boy in his school, and to force

back, through the principal, on the teacher, the responsibility of so interesting and training the boy who does not like school, that he will not need the attention of a special room or of the juvenile court. In time all cases of delinquency not due to individual defectiveness can probably be reached by the school authorities when boys are at an early age. If the school and the home are properly related, there ought to be no trouble in cutting off a very large percentage of the delinquent children who now come to the juvenile court from the public schools. In every city, the police constantly arrest large numbers of children for minor offenses, for little things which can be adjusted if the police officers see the boy's parents or take them to the captain for a talking to; cases in which there is no desire on the part of any one to prosecute. Every juvenile court should so educate the police that these minor cases can be handled intelligently by the police without reference to the court. There is no superior wisdom in the juvenile court which enables such cases to be better handled, for they are usually discharged with a little talking to at best. With careful supervision of police methods by sympathetic officers of the court, and by keeping constantly in touch with the Police Department, there will be an increasingly intelligent handling of such cases in all of the police districts. While in many communities the police system is bad, it is nevertheless true that more can be done than we have yet done toward socializing the force and training them to coöperate with the court. A

great deal more can be done to interest churches in the problems of their neighborhood, and the children of their congregation. The court should point out through its judge and probation officers, constantly studying the situation through the reports of district officers, just how in any given district the church can assist not only individual families and children, but can help to provide means for recreation and approved social life. In cases of delinquency, this larger coöperation, then, will force back upon the school, police, and neighborhood for solution, many of the problems with which they deal only feebly and ineffectively. But even such a large program of coöperation as this does not cover the fundamental troubles in family life. As we all know, much of the trouble begins with broken families, with neglect, and with poverty. Many of the juvenile court cases, and an increasing number in many well-organized communities, are those of neglected children, for an increase in the proportion of neglected children in a court means that the agencies in the community are reaching children before delinquency sets in as a result of inefficient home care. It is, therefore, necessary that the juvenile court should see that the cases of neglect and dependency with which it deals are properly handled outside. The burden in that direction has become so great that in several juvenile courts the practice has gone so far as the giving of pensions to widows through the court itself. It is a question as to whether the court is the proper agency for the giving of public relief. In most cities

there are usually departments in the municipal government which handle problems of relief, whether institutional or otherwise. In addition there are, of course, a large number of relief-giving private organizations. The juvenile court, through its judge or probation officers, can therefore see to it that relief given by public or private agencies, and neglected families cared for by public or private agencies are handled without the court's intervention. The juvenile court must constantly, through the cases it gets on probation and in the court, interpret to the community the causes from which these cases come and at the same time point out better means of prevention.

"A combination of school, home, intelligent police, church, neighborhood, recreation, and well-organized public and private relief, should be sufficient to reduce greatly the number of cases that come to the juvenile court. It would become then largely a clearing-house for the most serious cases which require commitment to an institution. It may be expected that in time the juvenile court will resolve itself chiefly into an agency for the legal commitment of children to institutions when such treatment is absolutely necessary.

"Until that time arrives, the test of a good court system is a constantly diminishing number of children brought before it and a re-interpretation of the volume of its business to the community. At the same time, all this material should be given intelligent publicity through the press, so that the process may be clearly understood and backed up by public sentiment. The police does not yet

understand the juvenile court. Many social agencies do not understand its functions and another of its items of progress now must be to interpret to the community its own function through its relation to other social agencies."

When there are agencies already organized for children's relief, placement, health, employment, recreation, and education, it is a comparatively easy matter for the probation officer to work out his problem. His chief task is simply the turning over of children to the proper agency without trial, or, if compulsion or special moral education are necessary, in supervising the plan, focusing the community resources upon the child, and doing intensive personal work with him.

So long, however, as the child-caring system of a community is defective, the probation officer's task is quadrupled: the defects will cause an increase in the number of his cases which have drifted to where they must have compulsory treatment; he must as best he can supply those defects for these cases, as well as refer them to those agencies which are already organized; and, if he is aggressive and intelligent, he will feel called on to urge the community at large to fill up the gap as soon as possible with the necessary law or organization.

CHAPTER XV

The Juvenile Court as Community Index

In order to perform intelligently his task of forcing back the responsibility for delinquency upon the normal institutions or rehabilitating agencies of the community, the probation officer must know the socializing resources of the community. This involves also a knowledge of the weak spots in the community's organization. No one else is in a better position than the probation officer to see the points at which social breakdown is occurring.

A community is like a bridge: the most radical defect is not necessarily at the point where a breach occurs. Wrong structure may produce a series of tensions and maladjustments which concentrate with undue pressure in some one part. If the material be weak at any point in that part, the yielding and breakdown will occur there. But the skillful engineer will realize that an additional reënforcement at that particular point after the breakdown, or even in the corresponding point

in other bridges, is not the real solution of the matter as a problem in bridge building. Unless the radical defect remaining, the breach would recur at another similarly weak spot near by. The probation officer, like the engineer, must trace back the lines of stress and point out how the general plan must change before breakdown will cease.

Or, to use a chemical metaphor, delinquency and neglect are the precipitate — the dregs — of a social solution which has reached what Ferri has called the "point of criminal saturation." By analyzing the dregs of society the probation officer can tell where lies the ill proportion or adulteration which has prevented the solution from being clear. Once he knows these defects, he can attempt to force back on the community at large these bigger duties, just as intelligently as he coöperates with efficient existing agencies, or forces back individual cases upon the unwatchful or inadequate ones.

Returning to the figure of the modal curve, the probation officer, running the gamut of more and less abnormal cases, sees the points at which the normal institutions or the agencies for special education are failing to modalize the child as he slips away from the normal line. Probation is

only one rather undifferentiated form of special education. Each form should similarly interpret its work to the agencies nearer the normal than itself. Thus each can learn better methods through being shown its failures by the agency into whose hands those failures next fall. Each rehabilitating agency should provide for statistical analysis of its records and urge necessary reforms,[1] or it becomes a static, palliative thing. Even if juvenile probation were eventually transferred to the schools, it would still have this function to perform, just as do schools for the feeble-minded and delinquents, truant officers, settlements, or relief societies.

The failure so to interpret their work in terms of preventive measures is what has led to the multiplication of palliative, remedial, and segregative institutions and agencies. The tremendous financial burden of supporting these agencies, and their continual call for more funds necessary to make their work successful in modalizing the abnormal inmates, are gradually making the public realize that expenditures for such things have

[1] *E.g.* Report of the Director of the Truancy Department, Indianapolis, 1911–1912, p. 3; Report of St. Louis Board of Education, 1912, pp. 157, 303.

reached the point of diminishing returns, or even are futile attempts to dam Niagara!

People are looking for ways in which to spend the public money more efficiently and constructively; in other words, where it will produce greater returns, or even a surplus, instead of a deficit. The work of the probation office and of other special educational agencies must be interpreted not only in terms of prohibitive laws and restrictive measures, but in terms of opportunity and release. They should show the need for the outlet and normal expression of children's energy before it becomes perverted and abnormal.

Besides the opinions expressed in the extract from the National Probation Association Report quoted in the chapter on the Present Task of the Juvenile Court, the following will show that the need for interpretative work is felt strongly by all those in close touch with child-caring and juvenile courts: [1]

Judge Lindsey has said, "Every child that comes before me is a case of parental responsibility, and every case leads back to conditions which are responsible for those parents."

[1] The quotations given are only those which are not elsewhere available in print. Cf. especially Professor W. E. Hotchkiss, Proceedings of the National Conferences of Charities and Correction, 1912;

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Professor H. W. Thurston of the New York School of Philanthropy, formerly chief probation officer of Chicago, has written:[1] "Thus far, perhaps, the greatest achievement of the juvenile court is its direct and powerful contribution to the development of a community consciousness of the wrongs which children suffer from remediable weaknesses in our most cherished institutions."

Commissioner Billiardé of the Winnipeg juvenile court writes:

"The immediate services of a juvenile court are vital and important, but its most vital and

Report of the Hotchkiss Committee, pp. 57–58; also *Child Problems*, G. B. Mangold, p. 243; *The Delinquent Child and the Home*, Breckenridge and Abbott, p. 710 (Miss Lathrop), pp. 45–46, p. 225 (Judge Pinckney), which are especially fine statements of the possible service of the juvenile court in this direction, also pp. 17–19, 34–35, 171–177; *The Nation* (Aug. 15, 1910), Vol. 95, pp. 139–140 (individualistic review of the above); *The Beast*, Lindsey and O'Higgins, pp. 151–152; B. B. Lindsey and H. W. Thurston, in *The Survey*, XXIII (1910), pp. 653–656, 666; Report of the New York State Probation Commission, 1907, pp. 98–99 (Yonkers); *The Treatment of Juvenile Delinquency*, R. R. Perkins, pp. 60–61, 64, 69–73; L. H. Levin, Proceedings of Fifth Maryland Conference of Charities and Corrections, 1909, p. 188; C. H. Henderson, Proceedings of the National Conference of Charities and Correction, 1905; Edwin Mulready (Massachusetts Probation Commission), City Club Bulletin (Philadelphia), May 20, 1912, p. 226.

[1] Unpublished Mss. (Preface). Kindness of the Federal Children's Bureau.

most important work lies in the fact that it projects, as it were, upon a screen, a faithful picture compelling a kindly but busy public to pause and observe the horrifying wastage of human material brought about by the industrialism and commercialism of our much vaunted modern civilization, and represented by the pathetic figure of the delinquent child in the juvenile court. This, then, I say, is by far the most important phase of the many-sided work of such a court, to direct public attention to the child, but most of all to the causes that have produced and molded such a child and which are logically responsible." [1]

A knowledge of social maladjustments has always been requisite for the proper interpretation and treatment of cases arising in the juvenile court. But a child, or all the children, coming to court are equally important for the interpretation of the maladjustments which produced them. Evil conditions led to the existence of the court. The existence of the court is now leading us back to evil conditions.

Unfortunately, most probation officers are not trained or intelligent enough to see behind the particular case to the general condition, at least not in any clear-cut and constructive way.

The services of an influential advisory commit-

[1] Report, 1911.

tee or volunteer body or "protective association" can be very valuable in carrying out this side of the court's work either in a community which demands conservatism of its judges, or in which the probation office is undermanned and too overburdened with case work to undertake such investigative and interpretative work.[1]

Nearly every juvenile court report in the country, unless it be confined strictly to meaningless legal statistics, contains some hints of interpretation of the court's work in terms of reform or community needs.

The Seattle (1911–1912), Los Angeles (1912), San Francisco (1911), St. Louis (1909–1910, 1912–1913), Chicago (1905–1911), Grand Rapids (1911–1912), Newark (1907–1912), Toronto (1913), Winnipeg (1911), Portland, Ore. (1906, 1908, 1912), reports are also especially rich in suggestions of this nature. Vancouver, B.C., Portland, Ore., Columbus, and Cleveland interpret their work with a strong bias toward putting the *onus* of responsibility on the parent or the home. The best pieces of work yet done are from Seattle, St. Louis, Los Angeles, and Winnipeg.

In Pittsburgh little interpretation of delinquency has been done except by Mrs. Katherine Hoyt,

[1] This is really better work for the protective associations than the case work which some attempt, and which might be turned over to public agencies.

a probation officer, who put through an excellent little piece of interpretative research, accompanied by recommendations. She also prepared a paper for the National Conference of Charities and Correction (1912) on the need of psychological study of girls, claiming that most of what has been done in the juvenile courts has been too exclusively for boys.

The Denver court employed two special probation officers in 1911 to survey conditions among girls, with the ultimate purpose of putting preventive measures on foot.[1] While its case work has had much — perhaps exaggerated — publicity, the still bigger work of the juvenile court of Denver, in which work as a court it is practically alone of all juvenile courts, has been in fearlessly showing up the causes and conditions responsible for the effects with which it deals.[2]

The probation office of Toledo is attempting to reach people through the Juvenile Court Association, a group which meets to hear lectures on the causes and remedies for abnormality in children.

Mrs. Bessie Lucas Allen, of the *Louisville* court, an excellent colored probation officer, presented an interesting interpretative paper on her work at the Third Annual Conference of the Juvenile Court Judges and Officers of the Middle Western States, in 1911.

In *Milwaukee* a good little piece of interpreta-

[1] Letter to the Hotchkiss Committee, Chicago, 1911.

[2] Report on the Juvenile Court of Denver, January, 1913.

tive work was done by a committee of the Central Council of Social Agencies on the causes of delinquency; but little has been done by the court. (Cf., however, Report, 1910–1911, p. 50.)

St. Louis is the crowning example of interpretative work by the probation office. Mr. Fullerton, recently the chief probation officer, writes:

"We are getting away, I think, from the individual case, and we are realizing more and more that to be efficient the Juvenile Court must simply be an eye for the community, through which to see the social diseases as they affect children." "The object of the Juvenile Court which understands its mission in a community is not to punish the children which come under its jurisdiction, but to point out the weak spots in the community to the agents for social uplift, to the end that these districts can be reached before it becomes necessary to bring the children into a corrective institution." The reader is referred to the St. Louis reports, 1909–1910, 1912–1913, as the best pieces of statistical work yet done by any juvenile court. The St. Louis reports are exceptionally broad-minded in that they criticize intelligently their own methods of compilation and the validity of their own deductions. "Parts of some of the tables have very little significance, because facts for the community at large are not available with which to compare them."

Miss Bartelme of *Chicago* is planning an inductive and interpretative study of the girls who pass through her hands, based both on histories and on results of treatment. Professor Thurston,

formerly of that court, and the Juvenile Protective Association have also done a great deal along this line, for both girls and boys.[1]

The Delinquent Child and the Home,[2] a piece of investigation begun by the Bureau of Social Research of the Chicago School of Philanthropy in 1907, and an unpublished work by Prof. H. W. Thurston, formerly chief probation officer, are, together with a still unpublished group of investigations by the New York Bureau of Social Research, begun in 1909, the most ambitious pieces of interpretative research in the field of juvenile delinquency.

Several courts (*e.g.* St. Louis, Cleveland, Grand Rapids) keep large mounted city maps like those used by many relief agencies, a new one each year, with a pin for each case colored for sex or for cause of complaint. This is something that every court can do without statistical knowledge or

[1] Cf. especially Synopses, Literature and Reports, 1909–1912, of the Juvenile Protective Association of Chicago.

[2] 8vo, 360 pages; 30 tables, Charities Publication Committee, for the Russell Sage Foundation, 1912. See footnotes, pp. 14, 15. Further available pieces of interpretative work in the field of juvenile delinquency based on actual court records are: *Juvenile Delinquency and Employment*, Document No. 645, 61st Congress, 2d Session, Report on Conditions of Women and Child Wage Earners, Vol. 8, Employment; *A Case Study of Delinquent Boys in the Juvenile Court of Chicago*, Mabel Carter Rhoades, American Journal of Sociology, XIII (1907), p. 56; also, references given in the chapter on clinical work in this book.

equipment, at very little outlay of money and time. Such a map speaks for itself. The wards where congestion, street play, and mixed population are the rule invariably show heavy delinquency. Incidentally, if the district system be used in the assignment of cases to officers, such a map furnishes an equitable basis for administrative division of the work.

The illustrations given, together with many hints from other cities, show that the trend is in the right direction. Practically all the interpretation so far done has been, however, on the plane of the ordinary experience and judgment of the probation officer, very frequently naïvely biased by his prejudices or his beliefs as to the causes of delinquency. I believe that the thing can eventually be carried much further, and upon a much more scientific plane. "The community has no means of knowing how well the efforts for children are succeeding unless the juvenile court expresses results in the form of statistical facts." [1]

The only real exception so far is St. Louis. Here the reports (1909–1910, 1912–1913) are at least ostensibly based on comparative statistics

[1] Extract from the Report of the National Probation Association (Ms. unpublished, 1913).

for types of cases, age, sex, and different years. From them an attempt is made to measure the efficiency of the court, or the result of certain policies, for example, that of forcing back certain cases upon other agencies. From them also, can be seen the general success or failure of the court in reaching cases at a younger age, or of one or other race or sex. Such knowledge brings with it the corresponding stimulus to reduce the percentages.

The cardinal and almost universal defect of juvenile court statistics is the failure to furnish comparative statistics of the general population, or the total population in the community belonging to the same age, race, sex, or religious group. Unless these are at hand, any interpretation of causes is apt to be worse than futile. Even the impression given by a pin map, such as was just described, must be discounted; until the cases are reduced to a percentage basis in relation to the population of the district, the effect of density of population in itself cannot be determined.

In the absence of accurate figures, the general character of a city, — its population, racial congestion, industrial or commercial status, types of housing, and topography, — should be noted briefly

as a background in every report, if it is to convey any real meaning to the outsider. The general child-caring system, divided according to the interests served,[1] should also be briefly outlined and criticized in the report.

Even where the statistics kept by the court are reasonably adequate and accurate, and might be valuable indices for court and community action, there is frequently entire failure to explain them or deduce anything from them. The labor of compilation is then wasted, for outsiders without knowledge of the local conditions cannot be expected to get true meanings from columns of figures whose accuracy, even, they have no means of testing.

The investigation blanks and forms used by juvenile courts might easily be — and in some places are — arranged so as to make obvious the causes of delinquency.[2] With such records, which throw back upon defects in the community the responsibility of every single case, it is so much the easier by a little compilation, to throw back

[1] Safety, health, recreation, education, employment, spiritual welfare.

[2] Cf. R. R. Perkins, *The Treatment of the Juvenile Delinquency*, Rockford, Ill., 1905, pp. 68–71; C. R. Henderson, Proceedings of the National Conference of Charities and Correction, 1905.

the general responsibility for a whole group of cases. The statistical method is the only one which can show up the community's weak spots with objective, quantitative accuracy. Minimum standards for the statistical treatment of juvenile court records are splendidly treated in the Report of the National Probation Association soon to be published, and need not be repeated here in full.

"The main principles set forth may be summarized as follows:

"(1) The necessity of a complete record of the social facts regarding each child.

"(2) The compilation of statistics from these records only by a person experienced in statistical work.

"(3) The separation of tables into (1) groups counted by cases and (2) groups counted by individual children.

"(4) The separation of cases actually before the court and those settled outside court (where this system prevails), and of delinquent and neglected children on a basis of the actual facts in each case.

"(5) Subdivisions to show sex and, where colored children are numerous, color groups.

"(6) The division of tables into four groups:

(*a*) Tables of all children before court during the year;

(*b*) Tables of new children only;

(*c*) Tables of old cases reappearing;

(*d*) Tables of children in care of the court at the beginning of the year and appearing in court on new complaint during the year.

"(7) The compilation of such tables only as deal either (1) with the volume of court business and methods (charges and dispositions) and (2) with social facts that can be compared with the community at large, with past years of the court and with groups of offenses (not offenses themselves), or (3) the success or failure of the probation method.

"The chief value of these statistics, however well compiled and clearly set out, is as a basis for an intelligent text discussion and analysis. It requires a long and careful study of any extensive group of statistics to interpret correctly their significance to the community. Statistics, it must always be remembered, are only a means to an end — and their proper interpretation is a more exacting task than is their compilation.

Too often it happens that we find that statistics are complete in themselves, but valueless because they are not properly interpreted." [1]

To form a true barometer of the pressure of maladjustment, the court which handles cases of abnormal or maladjusted children should be receiving all cases which are seriously enough disputed to warrant compulsory treatment. While some of these may be very near to the normal, as has been shown, yet it is reasonable to suppose that the compulsory cases will be to some extent a selected group of the more extreme varieties, especially those needing segregation.

If the children passing through the court are merely an accidental group, picked out not by special agencies but by the helter-skelter activities of police in neighborhoods without recreation facilities, the figures drawn from the court's records cannot be relied on. For, instead of indicating a certain percentage of abnormality per thousand population, or giving a sort of standard deviation, the group will itself conform in most respects to the chance distribution in the general population.

[1] Extract from Report of the National Probation Association (Ms. unpublished, 1913).

The causes of abnormality are so complex and interesting that it will be many years before social statistics reach a point where each factor can be isolated and measured quantitively — *i.e.*, comparatively with other causes or cities. If, however, cases are properly sifted before reaching court, the general percentage of delinquency should furnish a rough index of the general grade of child-caring in a community.

Such an index would under present conditions be of chief value in comparing different periods in the same court or in different wards in the same city; for the standards and policies of the court are more likely to be a fairly constant element in the equation. As yet the standards of various courts and the local peculiarities of child-caring make any statistical comparison absolutely meaningless, even in the rare instances where the statistics are reliable or significant for the particular community. If, however, the adjudication and treatment of children's cases ever become sufficiently uniform, the percentage coming to trial, corrected for areality, age distribution, perhaps for racial heterogeneity, and for other disturbing factors, might give us as true a statistical index of child-caring as we now have of

health, in refined vital statistics. We might then have cities ranking .0013, .0041, .0085 as we now have 50, 75, or 90 per cent dairies — each factor in the system contributing its quota to the index number.

Special indexes of this kind are increasingly useful; description and comparison are neither sufficiently clear nor sufficiently objective and accurate. We should have a special playground or recreation index — including as elements the space available, the density of school population, the number of instructors, the budget, and the number of hours per year in use. Similarly, we may some day have more accurate special indexes for employment and education, the other elements in normal life. Until such special indexes are developed, the probation officer must supply from his special experience the details of interpretation of increases, decreases, or local excesses of delinquency shown by his figures.[1]

"There are several reasons why juvenile courts have not been statistically studied and have not

[1] The writer at first hoped to be able to make a tentative statistical study of the juvenile delinquency figures from at least two representative cities with the idea of developing a method of securing a quantitative measure of community child-care or modalization. The state of the available statistics so far fails to warrant the effort.

themselves given out results of value; they are: (1) Because children's courts are new, their methods experimental, and their records irregular, incomplete, and without definite form; (2) Because under a constant pressure of work, statistics and records are neglected or held to be non-essential; (3) Because annual reports are not compiled by persons of experience, and are, therefore, so faulty from a statistical standpoint that as yet only a very few conform to the most elementary statistical principles; (4) Because statisticians must depend on the records, which are usually of little statistical value." [1]

There is not yet any juvenile court the standards of which meet the requirements for use as a community index. With work like that done in Seattle and St. Louis under way, it is not too much to hope, however, that such work may be done. As standards of juvenile court statistics improve, and comparative figures for the community at large become available, it will be possible to go much farther.

From the more scientific or sociological point of view it is not what juvenile courts are actually

[1] Extract from Report of the National Probation Association (Ms. unpublished, 1913).

doing in case work, or even as aggressive promoters of new movements, but to what extent their work can be taken as a correct gauge of progress in community modalization, which is of chief interest.

While no study has been made of the subject, there is some reason for thinking that with the present helter-skelter system of most cities it is not a selected group of children who reach the juvenile court. If the frequency curves of the court group should prove to coincide largely with those of a chance choice of children or families from the same environment, compared in respect to physique, mentality, and home conditions, the conclusion to be drawn in regard to the present functioning of the juvenile court would be somewhat startling. It would prove that the juvenile court experience, like the catching of measles, was mere accident for the child, and that such treatment as is forced upon the small percentage of children who get to court will not solve the general problem of delinquency. It would prove that not more probation officers for the supposedly selected group were needed, but social provision of more normal institutions and special agencies for the larger group, on a voluntary and constructive basis. The leading probation officers of the

country have openly expressed their understanding of the close connection between dependency and delinquency, not necessarily as cause and effect but as concomitant results of deeper causes.[1]

In a sense, the process of modalization on a case work or individual rescue basis simply serves to show its futility as compared with modalization on a broader basis of social legislation, which will keep the individual spontaneously near the mode, without the need of special education. Case work and social legislation must of course be supplementary.

[1] Statistics from Pittsburgh, New York, St. Louis, and Chicago show that about 30 per cent of delinquents have charity records.

APPENDIX A

Notes on American Detention Homes

Philadelphia has an excellent building admirably kept, including a small court room for preliminary hearings, clinic, playrooms, careful observation, and daily opening exercise.

New York City, *Brooklyn*, *Richmond* and *Queens*, and *Rochester* have used the buildings of the Societies for the Prevention of Cruelty to Children which in the past dominated to some extent the development of the New York juvenile courts. The Manhattan S. P. C. C. shelter is somewhat jail-like, is in a large office building, and insufficient occupation is provided for the children. It is unfortunate that the plan for the new Manhattan Children's Court building does not include provision for detention rooms. The new building will, however, be near enough to the S. P. C. C. building to avoid some of the unnecessary publicity of conveyance, though not its demoralizing influence unless the use of the van is abandoned.

In *Nashville* the detention home is similarly maintained by the Humane Commission.

Queens and *Richmond* should have separate detention homes, and under city supervision. The Brooklyn S. P. C. C. is now used for both Long Island boroughs.

The *Brooklyn* S. P. C. C. rooms are somewhat cramped, and there is some lack of occupation and supervision for the children, but the roof is used for play space, and the general administration is good. Segregation of types in the New York City S. P. C. C. buildings has not been thoroughly worked out.

Newark's detention home is nothing more nor less than a children's jail, opposite the penitentiary and looking like an adjunct of it. The guard, an ex-penitentiary guard, said the boys gave more trouble than the convicts. (Their spirit is perhaps less broken!) Boys often have to sleep together. There is no teacher and practically no play space. The boys destroy the library books lent them. A new home or change of methods is openly advocated by the probation office.

The *Washington* detention home is in the upper floor of a special police station and lockup, for minor female cases. It is crowded, there is no occupation for the children nor play space, and

types of children are not segregated. The rooms are small, discipline is difficult, the windows are barred. This "home" is frequently used for short commitments, as punishments, the law being evaded on this point by "continuing cases." Two boys were there whose cases had been "continued" a week, for stealing newspapers. A new building is much desired by the court.

In *Pittsburgh*, for years childen were detained in separate rooms at the jail, against the law. The present detention rooms, across the street from the jail in the old court house, are not much better. They were secured by the Juvenile Court Association. There is no real play space. Recently a teacher has been secured, but the children do not seem to be kept really interested nor helped nor carefully observed, as in Chicago. There is no proper segregation of types. Sanitary arrangements are very poor. Food for the boys has been bought from the jail kitchen. There is no provision for isolation of diseased children. Physical examinations have only been made weekly. Scandalous conditions have occasionally arisen. These rooms have been considered a temporary makeshift, but it has been with great difficulty that the county commissioners have been induced to ap-

propriate the money for new quarters. Many smaller cities in Pennsylvania have had no detention homes whatever.

In *Columbus* it has seemed impossible to get fit caretakers for the detention rooms, which are over the court rooms. The salary is only $75.00 a month. Except soon after the rooms were secured by Miss Keyes, the first probation officer, G. A. R. men have been chosen to fill the place. At that time she lived in it and supervised it herself.[1] The chief physical difficulties are lack of play space, sanitary equipments, and rooms for separating older from younger children. Only "trusties" can play in the small back yard. For a time the detention home was used as a sort of recreation center — an anomalous combination which was abandoned. The home is occasionally used for punishing children. The appropriation already voted for a new home has been held up, perhaps for political reasons, by the county commissioners.

In *Cincinnati* the detention rooms are little better than a jail. They are in a small office building over the juvenile court and probation

[1] This combination has also been tried in Portland, Ore., and is still in force in Vancouver, B.C. For small cities it is not impractical if there is adequate assistance and the probation office is located in the same building.

office, occupying only one floor, and connected with the main court house by a covered bridge. They were obliged to put bars in after having two suicides. The place is a fire trap, locked at night. The plaster and walls are scarred by idle fingers. Table games are torn by the children. There is no play space. The matron is capable but has no assistance at night. There is no instruction provided. Records have recently been installed, but no reports are made to the court. Sanitary provisions are inadequate. A new home is strongly urged by both social workers and probation officers.

In *Louisville* the Board of Children's Guardians' detention home is used by mutual agreement. The arrangement should eventually be made permanent by law, or a new home established for the court; but at present the system of coöperation seems satisfactory. The home is the most truly homelike of all the detention homes seen. The writer thought on being admitted that he had mistaken the place. There is an atmosphere of freedom and joy and hospitality, but withal a bit of southern happy-go-luckiness in such a thing as the failure to isolate cases of chicken pox, which were scattered in various rooms. The physicians had only just decided that it wasn't smallpox. No

physical examinations are made. There is no night supervision, and only segregation of old from young, and isolation of serious cases. Colored children are relegated to the kitchen parts of the house, and are inadequately provided for. They hope for a new building soon.

Indianapolis has as a detention home a remodeled residence excellent in most respects, though small. Again there is lack of play space and the complaint of difficulty with discipline. "They tear up the games and throw the books around." Energy will out. The male assistant is not a well-qualified caretaker for boys. There is inadequate night supervision. No school instruction is given. Children pending transportation to an institution, most delinquents and girls, but only suspected dependent cases are physically examined in the little clinic. Reports of observations are sent to the court in special cases pending final disposition. The home is used for week-end commitments[1] as warning to boys. No schooling is thus lost, but it is questionable whether much is accomplished. They hope for larger quarters in a few years.

The present *St. Louis* detention home furnishes no instruction and little amusement or play, though

[1] The same practice is used in Denver.

children are occasionally taken out by volunteers. The windows are barred and the plaster scarred. There is no play space, little instruction, and inadequate night supervision. Segregation by color, which is necessary as it is in Louisville and Washington, crowds the home, and has forced them to detain certain cases at the Industrial School in order to secure adequate segregation. It was some years before the present home was secured. Since then, public opinion has changed, and money ($75,000) for a new home is forthcoming. The correspondence of the probation office in regard to the plans show that they will be carried out with the thoroughness and up-to-dateness which characterizes that court in most other matters.

While there have been difficulties of administration and overcrowding, the *Chicago* detention home is rightly considered one of the best in the country, because of its careful segregation of types, its large staff, and the full development of the clinical educational [1] and observational sides of the work. It was originally proposed to place the school work in a separate building to be erected by the Board of Education, but this was never carried out. The court room and probation offices were reluctantly

[1] Since 1909 there have been four teachers.

moved to the main court house because of overcrowding and poor ventilation. If Chicago builds a new detention home it is to be hoped it will include court quarters again, and that it will be in a better part of town, and large enough to last. It will be the fourth removal of the court's quarters. Here there is no adequate play space; yet the need for constant and interesting occupation for these uncontrolled youngsters is well recognized and fulfilled. There is no great difficulty with discipline. The home is frequently used for short commitments as punishments.[1]

The details of the Chicago home are sufficiently available in the court's reports (1908–1911),[2] but a word about some informal observational work carried on by the teachers will be of interest here. The boys are caught in a proper mood for one or other of a group of typewritten forms which have been worked out by the skillful special teachers employed. They are worded so as to interest and draw out the child, and the information gathered is not only serviceable in the treatment of the child, but if a little more systematically connected with the physical, school, and environmental records,

[1] See also the Report of the Hotchkiss Committee, pp. 43 ff., 93.

[2] Since 1909 there have been four teachers.

might prove of broader practical and scientific interest. The idea might be utilized by other courts or schools. Here are uncorrected samples :[1]

John L——

Can you play magic tricks ? Yes.
Tell about it ? Make things disappear.
Have you a chum ? Yes.
Older or younger than you ? Older.
How long have you been friends ? One year.
Tell me why you like him ? He did me a favor.
Do you belong to a gang ? No.
How are the members taken in the gang ? No.
How do you spend your evenings ? Go to Nickel shows.
Why do boys get in trouble ? Stealing.

David G—— February 8, 1913.

Have you a chum ? Yes. A pal ? Yes.
Are you in a gang or club ? I am in a gang.
Where do you meet ? We meet in a candy store.
What kind of a boy do you have for a leader ?
We have a tough boy.
What rules do you have ? We have no rules.
How many shows do you go to in a week ?
I go to a show every night.
Where do you spend your evenings ?
In a club called West Park No. 2.
What do you do at the Club ? I play Basket Ball there.

[1] The Detroit home has a similar question form, but the questions are not so well worded.

How old are you? I am fifteen years and eleven months old.

Where were you born? I was born in Chicago.

Do you like stories? Yes. What kind do you like? Stories of the days of '76.

If you had lots of money what would you do? I would give all of it to my mother.

My First Chew of Tobacco plug

My father used to keep his chewing tobacco in the mawshen draw. I was looking for a nedle and thread when I saw the chewing tobacco I picked it up and looked at it. I saw it was tobacco so I took a big bight and liked it.

When I got home I pucked on the floor where my mother was moping and got another beating. Then I got sent to bed.

ROY S—— (Age 16, colored)
Juvenile School
Feb 6 1913.

Milwaukee's detention home has been much lauded. The original plans provide for a playground in the ample front yard, which is now kept sacred to an ornamental lawn, while the children are kept in separate rooms most of the day. A small play space has lately been arranged in the rear. The offer of a teacher by the Board of Education at the instance of social workers has not

been accepted. The personal management has been severely criticized, but the plant itself will in many ways be a model, when it is completed according to the plans:

"As designed, the west wing is for the girls and the east wing for the boys, the superintendent's room being in the center. Separate stairways are provided, giving them no opportunity to mingle.

"On the two floors are fifty single bedrooms, four dormitories, four hospital rooms, two being isolation hospital rooms, which can be entered only from the outside; three dining rooms, large kitchen and pantries, a schoolroom, a superintendent's office and living rooms, and the rooms for the help. There are four toilet and wash rooms, two on each floor.

"Separate stairways lead from second and third floors to the basement, to gymnasium and playrooms for boys and girls. In the basement, too, are the receiving rooms, doors entering from the outside; the sterilizing room, the laundry, and the janitor's quarters." [1]

The *Grand Rapids* home is small and inadequate but serviceable. It is only a year old. Children are sent there for violation of probation, as a lesson; for more careful discipline; and also for detention pending placement in homes. A teacher is being furnished by the Board of Education. What

[1] Report, 1910–1911.

seems an unnecessarily high percentage of cases are detained instead of being released to their parents (307 out of 566 in 1912). There is no segregation of dependent from delinquent cases. New quarters are urged by the court.

The *Detroit* detention home falls in a class with the St. Louis one. It is an old residence and stable, occasionally badly crowded. A near-by Y. M. C. A. coöperates to furnish some recreation, but there is absolutely no room for play in the house at present. The plaster has been torn and the furniture battered; and several escapes have occurred, as in St. Louis. There is no separation of types or ages, or even of the sick, except for special cases. Physical examinations are given, but the equipment is a makeshift. A teacher is furnished by the schools, but the instruction does not include much manual work. The Girls' Protective League has from time to time attempted to secure improvements with some success. Land has been purchased for a new home and court building, but politicians are said to be blocking the project for the time being in the hope of graft. The space in the present building could, however, be more efficiently utilized.

Judge Addams of *Cleveland* admits that the detention facilities for boys violate all the orthodox

standards as to equipment, but claims that the system works out reasonably well, and that from a financial point of view there is a great saving. The rooms are on the top floor of a police station, but may be reached by a separate entrance, and the administration is unconnected except as regards heat and light, which is thus saved to the county. A capable though not highly trained woman is in charge, without male assistance day or night. The place is neat and businesslike, and discipline is good. A report of observations is sent to the court by the matron with each child. The salvation of the place, however, is an arrangement by which the detained children attend the admirable Parental and Truant School near by, receiving manual and physical instruction as well as ordinary school work. Serious cases are sent to the women's department of the jail or even to the men's department.

The detention home for girls, separately organized, is located in a building which looks like a residence and is much better than the provision for boys, which, after all, should be considered temporary.

Buffalo had the first detention home in New York State. The court is still working for a new

detention home [1] and court building, the present one being a run-down residence with no proper facilities for segregating ages, for play, or for isolation of disease. A teacher and some school fixtures have been installed in the boys' dormitory. The report of the Board of Health physician is made out for the court on each case.

The *Rochester* S. P. C. C. shelter, being used for other purposes, is crowded for space. The house is clean but barren. Types of cases are partially segregated. A large parlor is used occasionally by outsiders to "entertain the children" in, and a few children are allowed to use the yard; but there is no real play space. The walls and furniture have been battered up and are patched where the boys have broken them. There is no instruction or handiwork except the usual "helping with the cleaning." They are letting the building run down because of plans for a new one. The court might advocate new quarters on its own account except for fear of political interference.

Of the cities west of Mississippi, *Kansas City* and *Los Angeles* have elaborate detention homes with large budgets and perhaps too much detention.

[1] See Reports of the N. Y. State Probation Commission, 1906, p. 82; 1911, p. 136.

Denver, *Portland*, Ore., *Vancouver*, B.C., *San Diego*, *San Francisco*, *Oakland*, *Minneapolis*, *St. Paul*, *Des Moines*, and *Omaha* have homes separate from the court room, not elaborate. The *San Diego* home is in the country. So is the *Minneapolis* one, which is also used as an intermediate institution for indeterminate commitments, under a special provision (Sec. 5) of the law. *St. Paul* wants a farm like the Minneapolis one, but already uses its detention homes for short commitments (one to six months) and for custody pending placement. A separate home for girls has recently been established. *Denver* and *Salt Lake City* use their detention homes for short commitments. *Kansas City* has two institutions, for girls and for boys, under court jurisdiction, used in this same way. In some western courts, this practice is considered educational rather than punitive, and is therefore not so objectionable as the similar use of the "home" in some eastern cities. There is, however, danger in it — it is so easy to shirk more difficult but more constructive work in this way.

In *Portland* the management of the detention home is said by social workers to be somewhat too repressive, there being occasional runaways. It has been used as a penalty (Reports, 1908, 1911).

The shelter of the Boys' and Girls' Aid Society is also used, pending placement in homes. The *Vancouver* home has an excellent playground and good segregation. It is, however, used as a semi-reformatory. So is the one in *Des Moines.*

In *Seattle* the court rooms are in the detention home. The *San Francisco* home is said to be used strictly for detention, not for punishment, and as few as possible are detained. New quarters are under way in both the latter places, and in *Oakland.*

Practically all the western homes are furnished instruction by the school boards.

Winnipeg has an excellent detention home, with playground, physical care, and segregation of types of children; and not too many are detained. The *Toronto* home has no playground. Toronto has the distinction of having provided for separate detention of children as far back as 1893.

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